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Executive Orders

EXECUTIVE ORDER BJ 12-02

Rules and Policies on Leave for Unclassified Service
Amended Retroactive to January 14, 2008

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

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

SECTION 1: Applicability:

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

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

SECTION 2: Definitions:

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

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

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

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

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

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

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

G. "Governor's Executive Office"("executive department, Office of the Governor" in BJ 08-64 and prior orders) means the budget unit 01-100 as listed in Schedule 01of the General Appropriations Act H. "Intermittent employee" means a person employed in state service who is not hired to work on a regularly scheduled basis.

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

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

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

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

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

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

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

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

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

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

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

M. "Sick leave" means leave with pay granted to an officer or employee who is unable to perform their usual duties and responsibilities due to illness, injury, or other

disability, or when the officer or employee requires medical, dental, or optical consultation or treatment.

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

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

P. "Unclassified appointee," a subclass of officers and employees in the unclassified service of the executive branch, means certain unclassified officers who are appointed

1) by the governor to serve on the governor's executive staff, the governor's cabinet, and the executive staff of the governor's cabinet, or to serve as the head of a particular agency;

2) by a cabinet member to serve on the cabinet member's executive staff;

3) by the superintendent of the Department of Education to serve on the superintendent's executive staff;

4) by an elected official in the executive branch who has adopted the rules and policies set forth in this Order, to serve on the elected official's executive staff; or

5) by the secretary of the Department of Economic Development to serve in the unclassified service in the Office of Business Development. An unclassified appointee shall be on duty and available to serve and in contact with their appointing authority throughout the term of their appointment except when on leave.

Q. "Unclassified service" means those positions of state service as defined in Article X, Sections 2 and 42 of the Louisiana Constitution of 1974, which are not positions in the classified service.

SECTION 3: Full-time Employees:

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

SECTION 4: Granting Leave:

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

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

SECTION 5: Earning of Annual and Sick Leave:

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

1. Members of boards, commissions, or authorities;

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

3. Temporary, intermittent, or seasonal employees; and

4. Part-time employees of the Governor's Executive Office.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. For any overtime hour(s);

2. For any hour(s) of leave without pay, except as set forth in Section 17 of this Order;

3. For any hour(s) of on-call status outside the officer or employee's regular duty hour(s);

4. For any hour(s) of travel or other activity outside the officer or employee's regular duty hours; or

5. For any hour(s) of a holiday or other non-work day which occurs while on leave without pay, except as set forth in Section 17 of this Order.

SECTION 6: Carrying Annual and Sick Leave Forward:

Accrued unused annual and sick leave earned by an unclassified officer or employee shall be carried forward to succeeding calendar years without limitation.

SECTION 7: Use of Annual Leave:

A. An unclassified officer or employee shall apply for use of annual leave, but it may be used only with the approval of the appointing authority, or the appointing authority's designee.

B. An unclassified officer or employee shall apply for use of, and use, annual leave, compensatory leave, or leave without pay when unavailable to serve their appointing authority as a result of voluntary or involuntary conditions, such as personal vacations or trips unrelated to the officer or employee's duties; performing political activities during regular tour of duty hours; or performing for compensation non-appointment related activities, duties, or work during regular tour of duty hours.

C. Annual leave shall not be charged for non-work days and/or non-regular tour of duty hours.

D. The minimum charge to annual leave records shall be in increments of not less that one-tenth (.1) of an hour, or six (6) minutes.

E. An appointing authority, or the appointing authority's designee, may require an unclassified officer or employee to use their accrued annual leave whenever such an action is determined by the appointing authority, or the appointing authority's designee, to be in the best interest of the department. When such an instance occurs, no unclassified officer or employee shall be required to reduce their accrued annual leave to less than two hundred forty (240) hours except:

1. When granted leave without pay, but subject to the military leave provision of Section 17 of this Order; or

2. When the absence from work is due to a condition covered by the Family and Medical Leave Act.

SECTION 8: Use of Sick Leave:

A. Sick leave with pay shall be used by an unclassified officer or employee who has accrued sick leave, when an illness or injury prevents the officer or employee from reporting to duty, or when medical, dental, or optical consultation or treatment is attended. Nonetheless, an unclassified appointee shall apply for use of, or use, sick leave when the appointee is unavailable or mentally or physically unable to serve their appointing authority as a result of voluntary or involuntary conditions.

B. A medical certificate is not required for an unclassified officer or employee to use accrued sick leave, but the appointing authority, or the appointing authority's designee, has discretion to require such a certificate as justification for an absence.

C. Sick leave shall not be charged for non-work days, or for non-regular tour of duty hours.

D. The minimum charge to sick leave records shall be in increments of not less than one-tenth (.1) of an hour, or six (6) minutes.

E. Sick leave with pay shall only be granted after it has been accrued by an unclassified officer or employee. Sick leave with pay shall not be advanced.

F. An appointing authority, or the appointing authority's designee, has discretion to place an unclassified officer or employee on sick leave after an officer or employee asserts the need to be absent from work due to an injury or illness.

SECTION 9: Transfer of Annual and Sick Leave:

A. A classified or unclassified officer or employee shall have all accrued annual and sick leave credited to them when the officer or employee transfers without a break in state service into a position covered by this Order.

B. An officer or employee shall have all accumulated annual and sick leave, to the extent that it was earned, credited to them when the officer or employee transfers without a break in service from a department not covered by this Order into a department covered by this Order.

C. When an unclassified officer or employee transfers without a break in service to a position covered by other leave rules of the state, the officer or employee's accrued annual and sick leave shall be transferred to the new employing state department or agency. The new employing department or agency shall either hold the annual and sick leave in abeyance or integrate the leave into its own system. The officer or employee's accumulated leave shall not be reduced during such integration.

SECTION 10: Disbursement of Accrued Annual Leave Upon Separation:

A. Upon the resignation, death, removal, or other final termination from state service of an unclassified officer or employee, the officer or employee's accrued annual leave shall be paid in a lump sum, up to a maximum of three hundred (300) hours, disregarding any final fraction of an hour. The payment shall be computed as follows:

1. When the officer or employee is paid on an hourly basis, the regular hourly rate that the officer or employee received at the time of termination from state service shall be multiplied by the number of hours of their accrued annual leave, which number is not to exceed three hundred (300) hours; or

2. When the officer or employee is paid on other than an hourly basis, the officer or employee's hourly rate shall be determined by converting the salary the officer or employee received at the time of termination from service into a working hourly rate. The converted hourly rate shall be multiplied by the number of hours of their accrued annual leave, which number is not to exceed three hundred (300) hours.

B. An unclassified officer or employee who is paid for accrued annual leave upon termination from service and who is subsequently re-employed in a leave earning classified or unclassified position shall reimburse the state service, through the employing agency, for the number of hours the officer or employee was paid which exceeded the number of work hours that transpired during the officer or employee's break from state service. In turn, the officer or employee shall receive a credit for the number of hours of annual leave for which the officer or employee made reimbursement to state service.

SECTION 11: Disbursement of Accrued Sick Leave Upon Separation:

An unclassified officer or employee shall not receive payment, directly or in kind, for any accrued sick leave remaining at the time of their termination from unclassified service.

SECTION 12: Continuance of Annual and Sick Leave:

An unclassified officer or employee shall receive credit for all accrued unpaid annual leave and all unused sick leave upon re-employment by the state in the unclassified service within a period of five (5) years from date of their termination from state service if the officer or employee's re-employment occurs during the effective period of this Order.

SECTION 13: Compensatory Leave:

A. Compensatory leave shall not be earned by the following persons:

1. Unclassified appointees;

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

3. Temporary, intermittent, or seasonal employees;

4. Members of boards, commissions, or authorities;

5. The executive director or equivalent chief administrative officer of all boards, commissions, and authorities operating within the executive branch who are appointed by a board, commission, or authority; and

6. Other officers of the state who are appointed by the governor, including members of boards, commissions, and/or authorities; and

7. Part-time employees of the Governor's Executive Office.

B. Compensatory leave may be earned when an appointing authority, or the appointing authority's designee, requires an unclassified officer or employee in a compensatory leave earning position to work on a holiday or at a time that the officer or employee is not regularly required to be on duty. At the discretion of the appointing authority, compensatory leave may be granted for such overtime hours worked outside the regularly assigned work schedule or on holidays. However, officers or employees exempt from the FLSA shall be compensated for such overtime in accordance with the FLSA.

C. No unclassified officer or employee who sets his own work schedule shall be eligible to earn compensatory leave. However, for overtime work which the appointing authority judges to be extraordinary and which the appointing authority closely monitors, the appointing authority may grant compensatory leave to such an unclassified officer or employee.

D. If an appointing authority permits the earning of compensatory leave to an FLSA-exempt unclassified officer or employee, then the amount of such leave shall be equal to, and not in excess of, the number of extra hours such an officer or employee is required to work.

E. When earned, compensatory leave shall be promptly credited to the unclassified officer or employee and, upon the approval of the appointing authority or the appointing authority's designee, it may be used by the officer or employee at a future time.

SECTION 14: Use and Disbursement of Compensatory Leave While in Service:

A. An unclassified officer or employee who is not exempt from the FLSA shall be paid in cash for any overtime hours worked in excess of the maximum balance allowed by the FLSA.

B. At the discretion of the appointing authority, an unclassified officer or employee may be paid in cash for any compensatory leave earned at the hour for hour rate in excess of three hundred sixty (360) hours. However, an appointing authority, with approval of the commissioner of administration, may authorize cash payments for any compensatory hours earned by officers or employees holding non-management disaster recovery related positions.

C. An appointing authority may require an unclassified officer or employee to use their earned compensatory leave at any time.

SECTION 15: Disbursement of Accrued Compensatory Leave Upon Separation:

A. When an unclassified officer or employee transfers without a break in service to another department within state service, at the discretion of the new appointing authority, the new department may credit accrued compensatory leave to the transferring officer or employee.

B. When the unclassified officer or employee, who is not exempt from the FLSA, separates from state service or transfers from the department in which the officer or employee earned compensatory leave to a department not crediting the officer or employee with the accrued balance of compensatory leave, the accrued compensatory leave shall be paid at the higher of the following rates:

1. The average regular rate of pay received by the officer or employee during the last three (3) years of his or her employment; or

2. The final regular rate of pay received by the officer or employee.

C. When an unclassified officer or employee, who is exempt from the FLSA, separates from state service or transfers from the department in which the officer or employee earned compensatory leave to a department not crediting the officer or employee with the accrued balance of compensatory leave, the accrued compensatory leave, if paid, shall be paid at the higher of the following rates:

1. The average regular rate of pay received by the officer or employee during the last three (3) years of his or her employment; or

2. The final regular rate of pay received by the officer or employee.

SECTION 16: Special Leave:

A. An unclassified officer or employee who is serving in a position that earns annual and sick leave shall be given time off, without loss of pay, annual leave, or sick leave when:

1. Performing state or federal grand or petit jury duty;

2. Appearing as a summoned witness before a court, grand jury, or other public body or commission;

3. Performing emergency civilian duty in relation to national defense;

4. Voting in a primary, general, or special election which falls on the officer or employee's scheduled work day, provided not more than two (2) hours of leave shall be allowed an officer or employee to vote in the parish of

employment, and not more than one (1) day of leave shall be allowed an officer or employee to vote in another parish;

5. Participating in a state civil service examination on a regular work day, or taking a required examination pertinent to the officer or employee's state employment before a state licensing board; \

6. The appointing authority determines an act of God prevents the performance of the duties of the officer or employee;

7. The appointing authority determines that, due to local conditions or celebrations, it is impracticable for the officer or employee to work in the locality;

8. The officer or employee is ordered to report for a pre-induction physical examination incident to possible entry into the armed forces of the United States;

9. The officer or employee is a member of the National Guard and is ordered to active duty incidental to a local emergency, an act of God, a civil or criminal insurrection, a civil or criminal disobedience, or a similar occurrence of an extraordinary and emergency nature which threatens or affects the peace or property of the people of the state of Louisiana or the United States;

10. The officer or employee is engaged in the representation of a pro-bono client in a civil or criminal proceeding pursuant to an order of a court of competent jurisdiction;

11. The officer or employee is a current member of Civil Air Patrol and, incident to such membership, is ordered to perform duty with troops or participate in field exercises or training, except that such leave shall not exceed fifteen (15) working days in any one (1) calendar year and shall not be used for unit meetings or training conducted during such meetings.

B. At the discretion of their appointing authority, an unclassified officer or employee who is not serving in a position which earns annual or sick leave, but who is regularly employed by the state of Louisiana in the executive branch within the meaning of R.S. 23:965(B) and who is called to serve or is serving on a state or federal grand or petit jury during regular tour of duty hours, may, in conjunction with the provisions of R.S. 23:965(B), be granted a leave of absence without loss of pay or use of accrued leave for a period of up to twelve (12) days per year.

SECTION 17: Military Leave:

A. An unclassified officer or employee serving in a position that earns annual and sick leave who is a member of a reserve component of the armed forces of the United States and called to duty for military purposes, or who is a member of a National Guard unit called to active duty as a result of a non-local or nonstate emergency, shall be granted a leave of absence from a state position without loss of pay or deduction of leave for a period not to exceed fifteen (15) working days per calendar year (hereafter "military leave with pay"). In addition, an appointing authoritymay grant annual leave, compensatory leave, leave without pay, or any combination thereof, for a period in excess of fifteen (15) working days per calendar year, in accordance with this Order and/or as required by state and/or federal law.

B. An unclassified officer or employee who is a member of a reserve competent of the armed forces of the United States or a National Guard unit, ordered and/or called to duty formilitary purposes, shall give prompt notice of the duty to their appointing authority, or the appointing authority's designee.

SECTION 18: Other Leave:

An unclassified officer or employee serving in a position that earns annual and sick leave may be eligible to use the following additional types of leave:

A. Optional Leave with Pay:

An unclassified officer or employee who is absent from work due to a disability for which the officer or employee is entitled to receive worker's compensation benefits, may use accrued sick or annual leave to receive combined leave and worker's compensation payments equal to, and, in an amount not to exceed, the officer or employee's regular salary.

B. Law Enforcement Disability Leave:

When an unclassified officer or employee in law enforcement becomes disabled while in the performance of a duty of a hazardous nature which results in their being unable to perform their usual or normal duties, the disabled officer or employee's appointing authority may, with the approval of the commissioner of administration, grant the disabled officer or employee a leave of absence with full pay during the period of such disability without charge against accrued sick or annual leave, provided the officer or employee pays to the employing department all amounts of weekly worker's compensation benefits received by the officer or employee during that period of leave with full pay.

C. Funeral Leave:

An unclassified officer or employee may, at the discretion of the appointing authority, be granted leave without loss of pay, or use of accrued leave to attend the funeral, burial, or last rites of a spouse, parent, step-parent, child, step-child, brother, step-brother, sister, step-sister, mother-in-law, father-in law, grandparent, grandchild, or any other person that the officer or employee's appointing authority deems appropriate, provided such leave shall not exceed a period of two (2) days for any single occurrence. Whenever possible, prior notice of the need to take such leave shall be given by the officer or employee to the appointing authority. At all other times, the officer or employee shall give notice of the need to take such leave at the time it is taken.

D. Educational Leave:

1. An appointing authority may grant an unclassified officer or employee educational leave without pay for an approved educational purpose, for a maximum period of twelve (12) months, in accordance with the rules developed by the commissioner of administration. Consecutive periods of leave without pay may be granted to the officer or employee by the appointing authority.

2. Upon the approval of the commissioner of administration and in accordance with the rules developed by the commissioner of administration, an appointing authority may grant an unclassified officer or employee educational leave with pay for a maximum period of thirty (30) calendar days during one (1) calendar year. Upon the approval of the commissioner of administration and in accordance with the rules developed by the commissioner of administration, an appointing authority may grant an unclassified officer or employee educational leave with pay for a maximum of ninety (90) calendar days during one (1) calendar year if, in addition to the general prerequisites necessary for qualification for educational leave with pay,

the educational instruction or training to be taken by the officer or employee is also necessary to, or will substantially aid, the administration of the state agency.

3. In accordance with the rules developed by the commissioner of administration, an appointing authority may grant a stipend to an unclassified officer or employee who has been granted educational leave if

1) funds are available for such purposes,

2) the commissioner of administration approves the stipend, and

3) the commissioner of administration finds the stipend will be used for a proper, designated purpose and its proper use is clearly supported with appropriate documentation.

SECTION 19: Leave of Absence Without Pay:

A. An appointing authority may extend a leave of absence without pay to an unclassified officer or employee for a period not to exceed one (1) year, provided that such leave shall not prolong the period of the officer or employee's appointment or employment in state service.

B. If an unclassified officer or employee fails to report for, or refuses to be restored to, duty in pay status on the first working day following the expiration of an approved leave of absence without pay, or at an earlier date upon reasonable and proper notice from the appointing authority or the appointing authority's designee, then the officer or employee shall be considered as having deserted their position of appointment or employment.

C. At the discretion of the appointing authority, or at the request of the unclassified officer or employee, a period of leave of absence without pay that has been extended to an officer or employee may be credited, provided such curtailment is in the best interest of state service and reasonable and proper notice thereof is furnished to the officer or employee.

SECTION 20: Holidays:

A. Holidays shall be observed as provided in R.S. 1:55 and by proclamation issued by the governor.

B. An unclassified officer or employee in state service in a compensatory leave earning or part-time position may, at the discretion of their appointing authority, receive additional compensation when required to work on an observed holiday.

C. When an unclassified officer or employee is on leave without pay during the period immediately preceding and following an observed holiday, that officer or employee shall not receive compensation for that holiday unless the holiday is worked by the officer or employee.

SECTION 21: Record Keeping:

A. Leave records shall be maintained for all unclassified appointees. Daily attendance and leave records shall be maintained for all other unclassified officers and employees who are eligible to accrue or use annual, sick and/or compensatory leave.

B. An accrued balance of unused annual, compensatory, and/or sick leave shall be held in abeyance for an officer or employee who becomes ineligible to earn and/or use the particular type of leave pursuant to the terms of this Order. The accrued balance(s) shall be available to the officer or employee, in accordance with the provisions of this Order, when he or she again becomes eligible to earn and/or use said leave, or when he or she separates from state service.

SECTION 22: Compliance:

A. All departments, commissions, boards, agencies, and officers or employees of the state, or any political subdivision thereof within the executive branch of state government effected by this Order shall comply with, be guided by, and cooperate in the implementation of the provisions of this Order.

B. The head of each department shall be responsible for deciding the extent to which the discretionary provisions of this Order shall be implemented within their department.

SECTION 23: Effective Dates:

Unless specifically designated otherwise, upon signature of the Governor, the provisions of this Order shall be applicable to all current and future unclassified officers and employees and, as to current officers and employees, be retroactive to noon on January 14, 2008. Any rights accrued to unclassified officers and employees prior to December 31, 2007, pursuant to the provisions of Executive Order No. KBB 2006-30, shall not be adversely affected by the retroactive application of this Order.

The provisions of this Order shall remain in effect until amended, modified, terminated, or rescinded by the governor, or until terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 16th day of March, 2012.

Bobby Jindal
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1204#087

EXECUTIVE ORDER BJ 12-03

Executive Branch—Expenditure Freeze

WHEREAS, pursuant to the provisions of Article IV, Section 5 of the Louisiana Constitution of 1974, as amended, and Act 12 of the 2011 Regular Session of the Louisiana Legislature, the Governor may issue executive orders which limit the expenditure of funds by the various agencies in the executive branch of State government (hereafter "expenditure freeze"); and

WHEREAS, underlying assumptions and needs in the development of the current year's State budget will be drastically altered by the projected decline in the State's revenues and the interests of the citizens of our State are best served by implementing fiscal management practices to ensure that appropriations will not exceed actual revenues; and

WHEREAS, in preparation of the budget challenges in the ensuing fiscal year, Executive Order BJ 2011-12 Limited Hiring Freeze issued on July 6, 2011, and is updated periodically, is related to the Expenditure Category of Personal Services, therefore Personal Services Expenditures will not be addressed in this Executive Order; and

WHEREAS, to ensure that the State of Louisiana will not suffer a budget deficit due to fiscal year 2011-2012 appropriations exceeding actual revenues and that the budget challenges in the ensuing fiscal year are met, prudent money management practices dictate that the best interests of the citizens of the State of Louisiana will be served by implementing an expenditure freeze throughout the executive branch.

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

SECTION 1: All departments, agencies, and/or budget units of the executive branch of the State of Louisiana as described in and/or funded by appropriations through Acts 12 and 42 of the 2011 Regular Session of the Louisiana Legislature (hereafter "Acts"), shall freeze expenditures as provided in this Executive Order.

SECTION 2: No department, agency, and/or budget unit of the executive branch of the State of Louisiana, unless specifically exempted by a provision of this Order or with the express written approval of the Commissioner of Administration; shall make any expenditure of funds related to the Expenditure Categories of Travel, Operating Services, Supplies, Professional Services, Other Charges, Interagency Transfers, Acquisitions, and Major Repairs.

SECTION 3:

A. The budget activities funded by the Acts which are exempt from the prohibitions set forth in Section 2 of the Order are as follows:

1. All budget activities directly related to declared emergencies, including hurricane recovery and rebuilding efforts; oil spill recovery efforts; and flood event protection, preparation, and recovery;

2. All budget activities directly necessary for a statewide elected official to perform his or her constitutional functions;

3. All essential budget activities which are expressly and directly mandated by the constitution, existing court orders, existing cooperative endeavor agreements, or existing bona fide obligations;

4. All contracts associated with the transformation of State government that lead to future savings;

5. All essential budget activities of statewide control agencies;

6. All essential budget activities directly required for collection of State revenues recognized by the Revenue Estimating Conference; and

7. All budget activities which are financed by Federal Funds directly.

B. Other budget activities funded by the Acts are exempt from the prohibitions set forth in Section 2 of this Order to the following degree:

1. Essential field travel, and supplies for incarceration, rehabilitation, diagnostic and health services, transportation of offenders, and probation and parole services related to adult corrections as well as positions and field travel for the Pardon Board and Parole Board in the Department of Public Safety and Corrections, Corrections Services;

2. Essential field travel, and supplies for juvenile secure care facilities and the Field Services Program in the Department of Public Safety and Corrections, Youth Services;

3. Essential field travel and supplies related to direct patient care;

4. Essential State Police commissioned trooper expenses - not including personnel expenses - as well as data processing, communications, and crime lab positions in Public Safety Services, field travel for public safety and regulatory activities of the State Police, as well as automotive, aviation, and forensic supplies for the State Police;

5. Essential Wildlife and Fisheries commissioned agent expenses – not including personnel expenses - as well as data processing, and communications, field travel for public safety and regulatory activities of the Enforcement Division, as well as automotive, watercraft and aviation, supplies for the Enforcement Division;

6. Essential instructional and residential expenses - not including personnel expenses - field travel, and supplies deemed to be absolutely critical for the operations of Special Schools, Recovery School District, Special School District #1, and Youth Challenge;

7. Essential expenses for the State Military Department - not including personnel expenses - associated with the deployment for backfilling for active duty national guard personnel, and installation management and force protection;

8. Essential expenses related to the housing of State adult and juvenile offenders in local correctional or detention facilities or work release programs.

C. The budget activities funded by the Acts which are exempt from the portion of the provisions of Section 2 of this Order that prohibits the expenditure of funds for travel are as follows:

1. Essential travel associated with promoting or marketing the State of Louisiana and/or its products by: a) the Office of Tourism within the Department of Culture, Recreation and Tourism; or b) the Department of Economic Development;

2. Essential field travel for the Mental Health Advocacy Service and the Louisiana Public Defender Board;

3. Essential field travel required for the Office of Legal Affairs, district managers and roving motor vehicle workers in the Office of Motor Vehicles, and inspectors and arson investigators of the Office of the State Fire Marshal in the Department of Public Safety and Corrections, Public Safety Services;

4. Essential field travel for the Municipal Fire and Police Civil Service and the State Police Commission deemed to be essential;

5. Essential travel for the Board of Elementary and Secondary Education for board meetings;

6. Essential field travel associated with Minimum Foundation Program internal auditors and field travel associated with the accountability initiatives and monitoring local teacher assessments.

D. The budget activities funded by the Acts which are exempt from the portions of the provisions of Section 2 of this Order that prohibits the expenditure of funds for supplies are as follows:

1. Essential expenditures of all departments, agencies, offices, boards, and commissions for supplies that total no more than seventy-five (75) percent of the initial appropriation for supplies for the department, agency, office, board or commission from State General Fund (direct) or State General Fund Equivalent for supplies expenditures;

2. Essential supplies for the Office of State Parks within the Department of Culture, Recreation and Tourism for maintenance and household needs to maintain State parks and commemorative areas;

3. Essential instructional supplies for post-secondary education;

4. Essential automotive supplies for travel exempted in Section 3.

SECTION 4: The Commissioner of Administration is authorized to develop additional guidelines as necessary to facilitate the administration of this Order.

SECTION 5: All departments, commissions, boards, offices, entities, agencies, and officers of the State of Louisiana, or any political subdivision thereof, are authorized and directed to cooperate in the implementation of the provisions of this Order.

SECTION 6: This Order is effective upon signature and shall remain in effect through June 30,

2012, unless amended, modified, terminated, or rescinded prior to that date.

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

Louisiana, at the Capitol, in the city of Baton Rouge, on this 23rd day of March, 2012.

Bobby Jindal
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1204#088

EXECUTIVE ORDER BJ 12-04

Offender Labor

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

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

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

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

SECTION 1: In furtherance of goals of the State of Louisiana of rehabilitating offenders, reducing recidivism, and reintegrating offenders into society, offender labor is hereby authorized for the construction of a nondenominational chapel at the State Police Barracks, Zachary, Louisiana.

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on the 30th day of March, 2012.

Bobby Jindal
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1204#089

Emergency Rules

DECLARATION OF EMERGENCY

Student Financial Assistance
Office of Student Financial Assistance

Scholarship/Grant Programs—Definitions
(LAC 28:IV.301)

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 amends the definition of "academic year (college)" to include summer sessions.

This Declaration of Emergency is effective March 19, 2012, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act. (SG12139E)

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 this Chapter shall have the meanings ascribed to such words and terms in this Section. Where the masculine is used in these rules, it includes the feminine, and vice versa; where the singular is used, it includes the plural, and vice versa.

Academic Year (college)—

a. Through the 2007-2008 academic year, the two- and four-year college and university academic year begins with the fall term of the award year, includes the winter term, if applicable, and concludes with the completion of the spring term of the award year. Intersessions ending during the academic year are included in the academic year. The two- and four-year college and university academic year does not include summer sessions or intersessions that do not end during the academic year.

b. During the 2008-2009 academic year, the academic year begins with the fall term of the award year, includes the winter term, if applicable, and concludes with the completion of the intersession immediately following the spring term of the award year. Intersessions ending during the academic year, including the intersession immediately following the spring term, are included in the academic year. The two- and four-year college and university academic year does not include summer sessions or other intersessions.

c. During the 2009-2010 and 2010-2011 academic years, the academic year begins with the fall term of the award year and concludes with the completion of the spring term of the award year or the intersession immediately following the spring term if such intersession ends no later than June 15, whichever is later. Any intersession or term that begins and ends during the academic year is included. The two- and four-year college and university academic year does not include other intersessions or summer sessions. See the definition of *intersession* below.

d. Beginning with the 2011-2012 academic year and thereafter, the academic year begins with the fall term of the award year and concludes immediately before the next fall term commences. All intersessions and summer sessions are included.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 24:2237 (December 1998), LR 25:256 (February 1999), LR 25:654 (April 1999), LR 25:1458 and 1460 (August 1999), LR 25:1794 (October 1999), LR 26:65 (January 2000), LR 26:688 (April 2000), LR 26:1262 (June 2000), LR 26:1601 (August 2000), LR 26:1993, 1999 (September 2000), LR 26:2268 (October 2000), LR 26:2752 (December 2000), LR 27:36 (January 2001), LR 27:284 (March 2001), LR 27:1219 (August 2001), LR 27:1840 (November 2001), LR 27:1875 (November 2001), LR 28:45 (January 2002), LR 28:446 (March 2002), LR 28:772 (April 2002), LR 28:2330, 2331 (November 2002), LR 29:555 (April 2003), LR 29:879 (June 2003), LR 30:1159 (June 2004), LR 30:2015 (September 2004), LR 31:36 (January 2005), LR 31:3112 (December 2005), LR 33:86 (January 2007), LR 33:439 (March 2007), LR 33:1339 (July 2007), LR 33:2612 (December 2007), LR 34:234 (February 2008), LR 34:1388 (July 2008), LR 34:1884 (September 2008), LR 35:228 (February 2009), LR 35:1489 (August 2009), LR 35:1490 (August 2009), LR 36:311 (February 2010), LR 36:490 (March 2010), LR 36:2854 (December 2010), LR 37:1561 (June 2011), LR 37:1562 (June 2011), LR 38:

George Badge Eldredge
General Counsel

1204#002

DECLARATION OF EMERGENCY

Student Financial Assistance Commission
Office of Student Financial Assistance

Scholarship/Grant Programs—GO Grant
(LAC 28:IV.1205)

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 amends the eligibility requirements for GO Grant recipients who are age 25 or older to delete the requirement that a student who is 25 years old or older must have a break in enrollment of at least two semesters to be eligible to receive a GO Grant.

The emergency rules are necessary to implement changes to the scholarship/grant programs to allow the Louisiana Office of Student Financial Assistance to effectively administer the programs. A delay in promulgating rules would have an adverse impact on the financial welfare of the eligible candidates. LASFAC has determined that these emergency rules are necessary in order to prevent imminent financial peril to the welfare of the affected recipients.

This Declaration of Emergency is effective March 19, 2012, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act. (SG12138E)

Title 28
EDUCATION
Part IV. Student Financial Assistance—Higher Education Scholarship and Grant Programs
Chapter 12. Louisiana GO Grant
§1205. Application and Initial Eligibility

A. - B.3. …

4.a. be a first time freshman who entered college during the 2007-2008 academic year or later; or

b. have entered college as a first time freshman during the 2007-2008 academic year or later and have become eligible for a federal Pell Grant or a financial need grant after the freshman year; or

c. be age 25 or older.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3023 and R.S. 17:3046 et seq.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:2616 (December 2007), amended LR 34:238 (February 2008), LR 35:2349 (November 2009), LR 36:2853 (December 2010, LR 37:1389 (May 2011), LR 38:

George Badge Eldredge
General Counsel

1204#001

DECLARATION OF EMERGENCY

Tuition Trust Authority
Office of Student Financial Assistance

START Savings Program
(LAC 28:VI.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 rules add the interest rates for the 2010 and 2011 calendar years.

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

This Declaration of Emergency is effective on March 20, 2012, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act. (ST12137E)

Title 28
EDUCATION
Part VI. Student Financial Assistance—Higher Education Savings
Chapter 3. Education Savings Account
§315. Miscellaneous Provisions

A. - B.22. …

23. For the year ending December 31, 2010, the Louisiana Education Tuition and Savings Fund earned an interest rate of 2.69 percent.

24. For the year ending December 31, 2010, the Savings Enhancement Fund earned an interest rate of 2.56 percent.

25. For the year ending December 31, 2011, the Louisiana Education Tuition and Savings Fund earned an interest rate of 2.53 percent.

26. For the year ending December 31, 2011, the Savings Enhancement Fund earned an interest rate of 2.47 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 23:712 (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 38:

George Badge Eldredge
General Counsel

1204#003

DECLARATION OF EMERGENCY

Office of the Governor
Division of Administration
Racing Commission

Daily Double
(LAC 35:I.10501)

Editor's Note: This Emergency Rule was not submitted in accordance with R.S. 49:953(B). This Rule was adopted on March 2, 2012, and received by the Office of the State Register on March 20, 2012.

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 March 13, 2012 and it shall remain in effect for 120 days or until this Rule takes effect through the normal promulgation process, whichever comes first. This declaration extends the Emergency Rule adopted and implemented on November 14, 2011.

The proposed amendment will allow more than two daily doubles to be permitted during any single race card for the

fair grounds thoroughbred meet opening on November 24, 2011, and all other licensed race tracks conducting live racing beginning on November 14, 2001. The Fair Grounds Race Track predicts that by allowing wagers on additional daily doubles, the handle will increase and therefore the revenue to the state of Louisiana will also increase for this meet. If this is not done by emergency procedure, the following Rule will not be enacted for the use of the fair grounds in 2011.

This proposed Rule has no known impact on family formation, stability, and/or autonomy as described in R.S. 49:972.

Title 35
HORSE RACING
Part I. General Provisions
Chapter 105. Daily Double
§10501. Daily Doubles

A. Daily doubles shall be permitted during any single race card.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:441 (December 1976), amended LR 3:37 (January 1977), LR 4:282 (August 1978), LR 6:542 (September 1980), LR 12:289 (May 1986), amended LR 38:

Charles A. Gardiner III
Executive Director

1204#013

DECLARATION OF EMERGENCY

Office of the Governor
Division of Administration
Racing Commission

Mandatory Health Screening
(LAC 35:I.1304)

Editor's Note: This Emergency Rule was not submitted in accordance with R.S. 49:953(B). This Rule was adopted on March 2, 2012, and received by the Office of the State Register on March 20, 2012.

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 March 13, 2012 and it shall remain in effect for 120 days or until this Rule takes effect through the normal promulgation process, whichever comes first. This declaration extends the Emergency Rule adopted and implemented on November 14, 2011.

The equine medical director of the Louisiana State Racing Commission has advised that the concern regarding Equine Piroplasmosis remains, but has been narrowed to the strain, Theileria equi. The need for a negative test for Babesia caballi is no longer required due to the extremely low incidence of Babesia caballi. This will significantly reduce the cost of the testing for the owners of the racehorses requiring testing for Equine Piroplasmosis.

This Rule has no known impact on family formation, stability, and/or autonomy as described in R.S. 49:972.

Title 35
HORSE RACING
Part I. General Provisions
Chapter 13. Health Rules
§1304. Mandatory Health Screening

A. …

B. No horse shall be allowed to enter the confines of a racetrack of any association holding a license to conduct a race meeting or race in Louisiana unless it has had an Equine Piroplasmosis (EP) test taken within 12 months of the date of entry upon the racetrack and/or race, with a negative result for Theileria equi. Record of the negative test shall be attached to registration papers of the horse upon entry to the racetrack. The trainer of the horse is responsible for insuring that a negative Piroplasmosis test result is in the racing secretary's office as required by this rule.

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

HISTORICAL NOTE: Promulgated by Department of Commerce, Racing Commission, LR 14:226 (April 1988), amended by the Office of the Governor, Division of Administration, Racing Commission, LR 37:1393 (May 2011), LR 38:

Charles A. Gardiner III
Executive Director

1204#012

DECLARATION OF EMERGENCY

Office of the Governor
Division of Administration
Racing Commission

Super Six
(LAC 35:I.10901)

Editor's Note: This Emergency Rule was not submitted in accordance with R.S. 49:953(B). This Rule was adopted on March 2, 2012, and received by the Office of the State Register on March 20, 2012.

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 March 13, 2012 and it shall remain in effect for 120 days or until this Rule takes effect through the normal promulgation process, whichever comes first. This declaration extends the Emergency Rule adopted and implemented on November 14, 2011.

The proposed amendment serves to correct the language of the Rule to properly state that seventy percent of the net amount in the pari-mutuel pool shall be distributed among the holders of pari-mutuel tickets which correctly designate the official winner in each of the six races comprising the super six. The Rule currently incorrectly provides that 30 percent of the net amount shall be distributed.

This Rule has no known impact on family formation, stability, and/or autonomy as described in R.S. 49:972.

Title 35
HORSE RACING
Part I. General Provisions
Chapter 109. Super Six
§10901. Super Six

A. The super six pari-mutuel pool is not a parlay and has no connection with or relation to any other pari-mutuel pool conducted by the association, nor to any win, place and show pool shown on the totalizator, nor to the rules governing the distribution of such other pools.

B. A super six pari-mutuel ticket shall be evidence of a binding contract between the holder of the ticket and the association and the said ticket shall constitute an acceptance of the super six provisions and rules.

C. A super six may be given a distinctive name by the association conducting the meeting, subject to approval of the commission.

D. The super six pari-mutuel pool consists of amounts contributed for a selection for win only in each of six races designated by the association with the approval of the commission. Each person purchasing a super six ticket shall designate the winning horse in each of the six races comprising the super six.

E. Those horses constituting an entry of coupled horses or those horses coupled to constitute the field in a race comprising the super six shall race as a single wagering interest for the purpose of the super six pari-mutuel pool calculations and payouts to the public. However, if any part of either an entry or the field racing as a single wagering interest is a starter in a race, the entry or the field selection shall remain as the designated selection to win in that race for the super six calculation and the selection shall not be deemed a scratch.

F. The super six pari-mutuel pool shall be calculated as follows.

1. The net amount in the pari-mutuel pool referred to in this Section is defined as the pari-mutuel pool created by super six wagering on that particular day and does not include any amounts carried over from previous days' betting as provided by in Subparagraph F.4.a below.

2. Seventy percent of the net amount in the pari-mutuel pool subject to distribution among winning ticket holders, plus any carryover resulting from provisions of Paragraph F.4, shall be distributed among the holders of pari-mutuel tickets which correctly designate the official winner in each of the six races comprising the super six.

3. Thirty percent of the net amount in the pari-mutuel pool subject to distribution among winning ticket holders shall be distributed among the holders of pari-mutuel tickets which correctly designate the second most official winners, but less than six, in each of the six races comprising the super six.

4. In the event there is no pari-mutuel ticket properly issued which correctly designates the official winner in each of the six races comprising the super six, the net pari-mutuel pool shall be distributed as follows.

a. Seventy percent of the net amount in the pari-mutuel pool shall be retained by the association as distributable amounts and shall be carried over to the next succeeding racing day as an additional net amount to be distributed as provided in Paragraph F.2.

b. Thirty percent of the net amount in the pari-mutuel pool subject to distribution among winning ticket holders shall be distributed among the holders of pari-mutuel tickets which correctly designate the most official winners, but less than six, in each of the six races comprising the super six.

5. Should no distribution be made pursuant to Paragraph F.1 on the last day of the association meeting, then that portion of the distributable pool and all monies accumulated therein shall be distributed to the holders of tickets correctly designating the most winning selections of the six races comprising the super six for that day or night; the provisions of Subsections I and J have no application on said last day.

G. In the event a super six ticket designates a selection in any one or more of the races comprising the super six and that selection is scratched, excused or determined by the stewards to be a nonstarter in the race, the actual favorite, as evidenced by the amounts wagered in the win pool at the time of the start of the race, will be substituted for the nonstarting selection for all purposes, including pool calculations and payoffs. In the event the amount wagered in the win pool on two or more favorites is identical, the favorite with the lowest number on the program will be designated as the actual favorite.

H. In the event of a dead heat for win between two or more horses in any super six race, all such horses in the dead heat for win shall be considered as winning horses in that race for the purpose of calculating the pool.

I. No super six shall be refunded except when all of the races comprising the super six are canceled or declared as "no contest." The refund shall apply only to the super six pool established on that racing card. Any net pool carryover accrued from a previous super six feature shall be further carried over to the next scheduled super six feature operated by the association.

J. In the event that any number of races less than six comprising the super six are completed, 100 percent of the net pool for the super six shall be distributed among holders of pari-mutuel tickets that designate the most winners in the completed races. No carryover from a previous day shall be added to the super six pool in which less than six races have been completed. Any net pool carryover accrued from a previous super six feature shall be further carried over to the next scheduled super six pool operated by the association.

K. No pari-mutuel ticket for the super six pool shall be sold, exchanged or canceled after the time of the closing of wagering in the first of the six races comprising the super six, except for such refunds on super six tickets as required by this regulation, and no person shall disclose the number of tickets sold in the super six pool or the number or amount of tickets selecting winners of super six races until such time as the stewards have determined the last race comprising the super six each day to be official.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 6:542 (September 1980),

amended LR 12:11 (January 1986), amended by the Department of Economic Development, Racing Commission, LR 15:8 (January 1989), LR 38:

Charles A. Gardiner III
Executive Director

1204#14

DECLARATION OF EMERGENCY

Office of the Governor
Division of Administration
Racing Commission

Pick Five
(LAC 35:I.11001)

Editor's Note: This Emergency Rule was not submitted in accordance with R.S. 49:953(B). This Rule was adopted on March 2, 2012, and received by the Office of the State Register on March 20, 2012.

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 March 13, 2012 and it shall remain in effect for 120 days or until this Rule takes effect through the normal promulgation process, whichever comes first. This declaration extends the Emergency Rule adopted and implemented on November 14, 2011.

The proposed Rule allows for an exotic wager which has a carryover of 50 percent of the betting pool when there is not a single ticket winner to the next day's wagering pool for the fair grounds thoroughbred meet opening on November 24, 2011, and all other licensed race tracks conducting live racing beginning on November 14, 2011. The fair grounds race track predicts that the Pick Five wager will increase the handle, and therefore the revenue to the state of Louisiana. The approximate amount of increase in handle is predicted by the fair grounds to be $23,000 for the entire meet. If this is not done by emergency procedure, the following Rule will not be enacted for the use of the fair grounds in 2011.

This Rule has no known impact on family formation, stability, and/or autonomy as described in R.S. 49:972.

Title 35
HORSE RACING
Part I. General Provisions
Chapter 110. Pick Five
§11001. Pick Five

A. The pick five pari-mutuel pool is not a parlay and has no connection with or relation to any other pari-mutuel pool conducted by the association, nor to any win, place and show pool shown on the totalizator, nor to the rules governing the distribution of such other pools.

B. A pick five pari-mutuel ticket shall be evidence of a binding contract between the holder of the ticket and the association and the said ticket shall constitute an acceptance of the pick five provisions and rules.

C. A pick five may be given a distinctive name by the association conducting the meeting, subject to approval of the commission.

D. The pick five pari-mutuel pool consists of amounts contributed for a selection for win only in each of five races designated by the association with the approval of the commission. Each person purchasing a pick five ticket shall designate the winning horse in each of the five races comprising the pick five.

E. Those horses constituting an entry of coupled horses or those horses coupled to constitute the field in a race comprising the pick five shall race as a single wagering interest for the purpose of the pick five pari-mutuel pool calculations and payouts to the public. However, if any part of either an entry or the field racing as a single wagering interest is a starter in a race, the entry or the field selection shall remain as the designated selection to win in that race for the pick five calculation and the selection shall not be deemed a scratch.

F. The pick five pari-mutuel pool shall be calculated as follows.

1. The net amount in the pari-mutuel pool referred to in this Section is defined as the pari-mutuel pool created by pick five wagering on that particular day and does not include any amounts carried over from previous days' betting as provided by in Subparagraph F.3.a and Subparagraph F.4.a below.

2. One hundred percent of the net amount in the pari-mutuel pool is subject to distribution to a single unique winning ticket holder, plus any carryover resulting from provisions of Paragraph F.3 and Paragraph F.4 shall be distributed to the unique winning ticket holder of the single pari-mutuel ticket which correctly designates the official winner in each of the five races comprising the pick five.

3. In the event there is more than one pari-mutuel ticket properly issued which correctly designates the official winner in each of the five races comprising the pick five, the net pari-mutuel pool shall be distributed as follows.

a. Fifty percent of the net amount in the pari-mutuel pool shall be retained by the association as distributable amounts and shall be carried over to the next succeeding racing day as an additional net amount to be distributed as provided in Paragraph F.2.

b. Fifty percent of the net amount in the pari-mutuel pool subject to distribution among winning ticket holders shall be distributed among the holders of pari-mutuel tickets which correctly designate the official winner in each of the five races comprising the pick five.

4. In the event there is no pari-mutuel ticket properly issued which correctly designates the official winner in each of the five races comprising the pick five, the net pari-mutuel pool shall be distributed as follows.

a. Fifty percent of the net amount in the pari-mutuel pool shall be retained by the association as distributable amounts and shall be carried over to the next succeeding racing day as an additional net amount to be distributed as provided in Paragraph F.2.

b. Fifty percent of the net amount in the pari-mutuel pool subject to distribution among winning ticket holders shall be distributed among the holders of pari-mutuel tickets which correctly designate the most official winners, but less than five, in each of the five races comprising the pick five.

5. Should no distribution be made pursuant to Paragraph F.1 on the last day of the association meeting, then that portion of the distributable pool and all monies accumulated therein shall be distributed to the holders of tickets correctly designating the most winning selections of

the five races comprising the pick five for that day or night; the provisions of Subsections I and J have no application on said last day.

G. In the event a pick five ticket designates a selection in any one or more of the races comprising the pick and that selection is scratched, excused or determined by the stewards to be a nonstarter in the race, the actual favorite, as evidenced by the amounts wagered in the win pool at the time of the start of the race, will be substituted for the nonstarting selection for all purposes, including pool calculations and payoffs. In the event the amount wagered in the win pool on two or more favorites is identical, the favorite with the lowest number on the program will be designated as the actual favorite.

H. In the event of a dead heat for win between two or more horses in any pick five race, all such horses in the dead heat for win shall be considered as winning horses in that race for the purpose of calculating the pool.

I. No pick five shall be refunded except when all of the races comprising the pick five are canceled or declared as "no contest." The refund shall apply only to the pick five pool established on that racing card. Any net pool carryover accrued from a previous pick five feature shall be further carried over to the next scheduled pick five feature operated by the association.

J. In the event that any number of races less than five comprising the pick five are completed, 100 percent of the net pool for the pick five shall be distributed among holders of pari-mutuel tickets that designate the most winners in the completed races. No carryover from a previous day shall be added to the pick five pool in which less than five races have been completed. Any net pool carryover accrued from a previous pick five feature shall be further carried over to the next scheduled pick five pool operated by the association.

K. No pari-mutuel ticket for the pick five pool shall be sold, exchanged or canceled after the time of the closing of wagering in the first of the five races comprising the pick five, except for such refunds on pick five tickets as required by this regulation, and no person shall disclose the number of tickets sold in the pick five pool or the number or amount of tickets selecting winners of pick five races until such time as the stewards have determined the last race comprising the pick five each day to be official.

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

HISTORICAL NOTE: Promulgated by Office of the Governor, Division of Administration, Racing Commission, LR 38:

Charles A. Gardiner III
Executive Director

1204#015

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

Disproportionate Share Hospital Payments
Low Income and Needy Care Collaboration
(LAC 50:V.2503 and 2713)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:V.2503 and adopts §2713 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repromulgated all of the Rules governing the disproportionate share hospital (DSH) payment methodology in LAC 50:V.Chapters 25 and 27 *(Louisiana Register*, Volume 34, Number 4). The department amended the provisions governing disproportionate share hospital payments to provide for a supplemental payment to hospitals that enter into an agreement with a state or local governmental entity for the purpose of providing healthcare services to low income and needy patients (*Louisiana Register*, Volume 36, Number 1). The department promulgated an Emergency Rule which amended the provisions of the January 20, 2010 Emergency Rule to revise the participation requirements for the Low Income and Needy Care Collaboration (*Louisiana Register*, Volume 37, Number 1). This Emergency Rule is being promulgated to continue the provisions of the January 1, 2011 Emergency Rule. This action is being taken to secure new federal funding and to promote the public health and welfare of uninsured individuals by assuring that hospitals are adequately reimbursed for furnishing uncompensated care.

Effective April 29, 2012, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing disproportionate share hospital payments.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part V. Hospital Services
Subpart 3. Disproportionate Share Hospital Payments
Chapter 25. Disproportionate Share Hospital Payment Methodologies

§2503. Disproportionate Share Hospital Qualifications

A. - A.5. ...

6. effective September 15, 2006, be a non-rural community hospital as defined in §2701.A.;

7. effective January 20, 2010, be a hospital participating in the Low Income and Needy Care Collaboration as defined in §2713.A.; and

8. effective July 1, 1994, must also have a Medicaid inpatient utilization rate of at least 1 percent.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:655 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

Chapter 27. Qualifying Hospitals

§2713. Low Income and Needy Care Collaboration

A. Definitions

Low Income and Needy Care Collaboration Agreement—an agreement between a hospital and a state or local governmental entity to collaborate for purposes of providing healthcare services to low income and needy patients.

B. In order to qualify under this DSH category in any period, a hospital must be party to a Low Income and Needy Care Collaboration Agreement with the Department of Health and Hospitals in that period.

C. DSH payments to Low Income and Needy Care Collaborating Hospitals shall be calculated as follows.

1. In each quarter, the department shall divide hospitals qualifying under this DSH category into two pools. The first pool shall include hospitals that, in addition to qualifying under this DSH category, also qualify for DSH payments under any other DSH category. Hospitals in the first pool shall be eligible to receive DSH payments under §2713.C.2 provisions. The second pool shall include all other hospitals qualifying under this DSH category. Hospitals in the second pool shall be eligible to receive DSH payments under §2713.C.3 provisions.

2. In each quarter, to the extent the department appropriates funding to this DSH category, hospitals that qualify under the provisions of §2713.C.2 shall receive 100 percent of the total amount appropriated by the department for this DSH category.

a. If the net uncompensated care costs of these hospitals exceed the amount appropriated for this pool, payment shall be made based on each hospital's pro rata share of the pool.

i. The pro rata share shall be calculated by dividing the hospital's net uncompensated care costs by the total of the net uncompensated care costs for all hospitals qualifying under §2713.C.2 and multiplying by the amount appropriated by the department.

b. If the amount appropriated for this DSH category exceeds the net uncompensated care costs of all hospitals qualifying under §2713.C.2, payment shall be made up to each hospital's net uncompensated care costs.

c. Any amount available after all distributions are made under §2713.C.2 provisions shall be distributed subject to the provisions in §2713.C.3.

3. In each quarter, to the extent distributions are available, and after all distributions are made under §2713.C.2 provisions, distributions under §2713.C.3 provisions shall be made according to the following terms.

a. If the net uncompensated care costs of all hospitals qualifying for payment under §2713.C.3 provisions exceed the amount available for this pool, payment shall be made based on each hospital's pro rata share of the pool.

i. The pro rata share shall be calculated by dividing its net uncompensated care costs by the total of the net uncompensated care costs for all hospitals qualifying under §2713.C.3.

b. If the amount available for payments under §2713.C.3 exceeds the net uncompensated care costs of all qualifying hospitals, payments shall be made up to each hospital's net uncompensated care costs and the remaining amount shall be used by the department to make disproportionate share payments under this DSH category in future quarters.

D. In the event it is necessary to reduce the amount of disproportionate share payments under this DSH category to remain within the federal disproportionate share allotment in any quarter, the department shall calculate a pro rata decrease for each hospital qualifying under the provisions of §2713.C.3.

1. The pro rata decrease shall be based on a ratio determined by:

a. dividing that hospital's DSH payments by the total DSH payments for all hospitals qualifying under §2713.C.3 in that quarter; and

b. multiplying the amount of DSH payments calculated in excess of the federal disproportionate share allotment.

2. If necessary in any quarter, the department will reduce Medicaid DSH payments under these provisions to zero for all applicable hospitals.

E. After the reduction in §2713.D has been applied, if it is necessary to further reduce the amount of DSH payments under this DSH category to remain within the federal disproportionate share allotment in any quarter, the department shall calculate a pro rata decrease for each hospital qualifying under §2713.C.2.

1. The pro rata decrease shall be based on a ratio determined by:

a. dividing that hospital's DSH payments by the total DSH payments for all hospitals qualifying under §2713.C.2 in that quarter; and

b. multiplying the amount of DSH payments calculated in excess of the federal disproportionate share allotment.

2. If necessary in any quarter, the department shall reduce Medicaid DSH payments under these provisions to zero for all applicable hospitals.

F. Qualifying hospitals must submit costs and patient specific data in a format specified by the department. Costs and lengths of stay will be reviewed for reasonableness before payments are made.

G. Payments shall be made on a quarterly basis, however, each hospital's eligibility for DSH and net uncompensated care costs shall be determined on an annual basis.

H. Payments to hospitals qualifying under this DSH category shall be made subsequent to any DSH payments for which a hospital is eligible under another DSH category.

I. Aggregate DSH payments for hospitals that receive payment from this category, and any other DSH category, shall not exceed the hospital's specific DSH limit. If payments calculated under this methodology would cause a hospital's aggregate DSH payment to exceed the limit, the payment from this category shall be capped at the hospital's specific DSH limit. The remaining payments shall be redistributed to the other hospitals in accordance with these provisions.

J. If the amount appropriated for this DSH category exceeds the specific DSH limits of all qualifying hospitals, payment will be made up to each hospital's specific DSH limit and the remaining amount shall be used by the department to make disproportionate share payments under this DSH category in future quarters.

K. Effective for dates of service on or after January 1, 2011, all parties that participate in Medicaid DSH payments under this Section, either as a qualifying hospital by receipt of Medicaid DSH payments or as a state or local

governmental entity funding Medicaid DSH payments, must meet the following conditions during the period of their participation:

1. Each participant must comply with the prospective conditions of participation in the Louisiana Private Hospital Upper Payment Limit Supplemental Reimbursement Program.

2. A participating hospital may not make a cash or in-kind transfer to their affiliated governmental entity that has a direct or indirect relationship to Medicaid payments and would violate federal law.

3. A participating governmental entity may not condition the amount it funds the Medicaid Program on a specified or required minimum amount of low income and needy care.

4. A participating governmental entity may not assign any of its contractual or statutory obligations to an affiliated hospital.

5. A participating governmental entity may not recoup funds from an affiliated hospital that has not adequately performed under the Low Income and Needy Care Collaboration Agreement.

6. A participating hospital may not return any of the Medicaid DSH payments it receives under this Section to the governmental entity that provides the non-federal share of the Medicaid DSH payments.

7. A participating governmental entity may not receive any portion of the Medicaid DSH payments made to a participating hospital under this Section.

L. Each participant must certify that it complies with the requirements of §2713.K by executing the appropriate certification form designated by the department for this purpose. The completed form must be submitted to the Department of Health and Hospitals, Bureau of Health Services Financing.

M. Each qualifying hospital must submit a copy of its Low Income and Needy Care Collaboration Agreement to the department.

N. The Medicaid DSH payments authorized in LAC 50:V.Subpart 3 shall not be considered as interim Medicaid inpatient payments in the determination of cost settlement amounts for inpatient hospital services rendered by children's specialty hospitals.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

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

Bruce D. Greenstein
Secretary

1204#054

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

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

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XV.9113 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions to allow for Medicaid coverage and reimbursement of mental health services provided to students by school based health centers and to establish provisions for other Medicaid-covered services (*Louisiana Register*, Volume 34, Number 8). School based health centers were required to be enrolled as a KIDMED provider. The KIDMED program will be terminated June 1, 2012. Children who receive services in the KIDMED Program will continue to receive covered services through the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program. This Emergency Rule is being promulgated to amend the standards of participation for school based health centers to require them to be enrolled as an EPSDT services provider.

This action is being taken to promote the health and welfare of Medicaid eligible recipients and to assure a more efficient and effective delivery of health care services. It is estimated that implementation of this Emergency Rule will have no programmatic costs for state fiscal year 2011-2012.

Effective June 1, 2012, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the standards of participation for School Based Heath Centers in the Early and Periodic Screening, Diagnosis and Treatment Program.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XV. Services for Special Populations
Subpart 5. Early and Periodic Screening, Diagnosis, and Treatment
Chapter 91. School Based Health Centers
Subchapter B. Provider Participation
§9113. Standards of Participation

A. - D. ...

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 40:31.3 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1419 (July 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:366 (February 2012), LR 38:

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

Bruce D. Greenstein
Secretary

1204#053

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

Federally Qualified Health Centers
Fluoride Varnish Applications
(LAC 50:XI.10301 and 10701)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XI.10301 and §10701 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing federally qualified health centers (FQHCs) to provide Medicaid reimbursement for diabetes self-management training services and to reorganize the existing provisions governing provider participation and services in a more clear and concise manner in the *Louisiana Administrative Code* (*Louisiana Register*, Volume 37, Number 9). The department published an Emergency Rule which amended the September 20, 2011 Rule to adopt provisions for the coverage of fluoride varnish application services rendered to Medicaid recipients (*Louisiana Register* Volume 37, Number 11). The department promulgated an Emergency Rule which amended the December 1, 2011 Emergency Rule to clarify the provisions governing the scope of services for fluoride varnish applications (*Louisiana Register*, Volume 38, Number 1). This Emergency Rule is being promulgated to continue the provisions of the January 20, 2012 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients.

Effective May 20, 2012, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing federally qualified health centers.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XI. Clinic Services
Subpart 13. Federally-Qualified Health Centers

Chapter 103. Services

§10301. Scope of Services

A. - B.1.…

C. Effective December 1, 2011, the department shall provide coverage for fluoride varnish applications performed in the FQHC. This service shall be limited to recipients from six months through five years of age. Fluoride varnish applications may be covered once every six months per Medicaid recipient.

1. Fluoride varnish applications shall be reimbursed when performed in the FQHC by:
   a. the appropriate dental providers;
   b. physicians;
   c. physician assistants;
   d. nurse practitioners;
   e. registered nurses; or
   f. licensed practical nurses.

2. All participating staff shall review the Smiles for Life training module for fluoride varnish and successfully pass the post assessment. All staff involved in the varnish application must be deemed as competent to perform the service by the FQHC.

AUTHORITY NOTE: Promulgated in 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 30:2328 (October 2004), repromulgated LR 30:2487 (November 2004), amended LR 32:1901 (October 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:2927 (September 2011), LR 38:

Chapter 107. Reimbursement Methodology

§10701. Prospective Payment System

A. - B.3.a. …

4. Effective for dates of service on or after December 1, 2011, the Medicaid Program shall include coverage for fluoride varnish applications in the FQHC encounter rate.

a. Fluoride varnish applications shall only be reimbursed to the FQHC when performed on the same date of service as an office visit or preventative screening. Separate encounters for fluoride varnish services are not permitted and the application of fluoride varnish does not constitute an encounter visit.

C. - F. …

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1902 (October 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:2630 (September 2011), LR 38:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box

91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Bruce D. Greenstein
Secretary

1204#055

DECLARATION OF EMERGENCY

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

Home and Community-Based Services Waivers
Children's Choice
Allocation of Waiver Opportunities
(LAC 50:XXI.11107)

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

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities adopted provisions in the Children's Choice Waiver for the allocation of additional waiver opportunities for the Money Follows the Person Rebalancing Demonstration Program (*Louisiana Register*, Volume 35, Number 9). The department promulgated an Emergency Rule which amended the provisions of the Children's Choice Waiver to provide for the allocation of waiver opportunities for children who have been identified by the Office for Citizens with Developmental Disabilities regional offices and human services authorities and districts as meeting state-funded family support criteria for priority level 1 and 2, and needing more family support services than what is currently available through state-funded family support services (*Louisiana Register*, Volume 36, Number 9). This Emergency Rule is being promulgated to continue the provisions of the September 20, 2010 Emergency Rule. This action is being taken to secure enhanced federal funding.

Effective May 17, 2012, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amend the provisions governing the allocation of opportunities in the Children's Choice Waiver.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXI. Home and Community-Based Services Waivers
Subpart 9. Children's Choice
Chapter 111. General Provisions
§11107. Allocation of Waiver Opportunities

A. The order of entry in the Children's Choice Waiver is first come, first served from a statewide list arranged by date of application for the Developmental Disabilities Request for Services Registry for the New Opportunities Waiver. Families shall be given a choice of accepting an opportunity in the Children's Choice Waiver or remaining on the DDRFSR for the NOW.

1. The only exceptions to the first come, first served allocation of waiver opportunities shall be for the:

a. Money Follows the Person Rebalancing Demonstration waiver opportunities which are allocated to demonstration participants only; and

b. waiver opportunities which are allocated to children who have been determined to need more services than what is currently available through state funded family support services.

B. - B.1.b. ...

C. Four hundred twenty-five opportunities shall be designated for qualifying children with developmental disabilities that have been identified by the Office for Citizens with Developmental Disabilities (OCDD) regional offices and human services authorities and districts as needing more family support services than what is currently available through state funded family support services.

1. To qualify for these waiver opportunities, children must:

a. be under 18 years of age;

b. be designated by the OCDD regional office, human services authority or district as meeting priority level 1 or 2 criteria;

c. be Medicaid eligible;

d. be eligible for state developmental disability services; and

e. meet the ICF/DD level of care.

2. Each OCDD regional office and human services authority or district shall be responsible for the prioritization of these opportunities. Priority levels shall be defined according to the following criteria:

a. Priority Level 1. Without the requested supports, there is an immediate or potential threat of out-of-home placement or homelessness due to:

i. the individual's medical care needs;

ii. documented abuse or neglect of the individual;

iii. the individual's intense or frequent challenging behavioral needs; or

iv. death or inability of the caregiver to continue care due to their own age or health; or

v. the possibility that the individual may experience a health crisis leading to death, hospitalization or placement in a nursing facility.

b. Priority Level 2. Supports are needed to prevent the individual's health from deteriorating or the individual from losing any of their independence or productivity.

3. Children who qualify for one of these waiver opportunities are not required to have a protected request date on the Developmental Disabilities Request for Services Registry.

4. Each OCDD regional office, human services authority and district shall have a specific number of these opportunities designated to them for allocation to waiver recipients.

5. In the event one of these opportunities is vacated, the opportunity shall be returned to the allocated pool for that particular OCDD regional office, human services authority or district for another opportunity to be offered.

6. Once all of these opportunities are filled, supports and services, based on the priority determination system, will be identified and addressed through other resources currently available for individuals with developmental disabilities.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 35:1892 (September 2009), amended LR 38:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

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

Bruce D. Greenstein
Secretary

1204#056

DECLARATION OF EMERGENCY

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

Home and Community-Based Services Waivers
Residential Options Waiver
(LAC 50:XXI.Chapters 161-169)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amend LAC 50:XXI.Chapters 161-169 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office for Citizens with Developmental Disabilities adopted provisions establishing the Residential Options Waiver (ROW), a home and community-based services (HCBS) waiver program, to promote independence for individuals with developmental disabilities by offering a wide array of services, supports and residential options that assist individuals to transition from institutional care (*Louisiana Register*, Volume 33, Number 11). The department promulgated an Emergency Rule which amended the November 20, 2007 Rule to revise the provisions governing the allocation of waiver opportunities and the delivery of services in order to provide greater clarity (*Louisiana Register*, Volume 36, Number 4). As a result of a budgetary shortfall in state fiscal year 2011, the department promulgated an Emergency Rule which amended the provisions governing the Residential Options Waiver to clarify the provisions governing the annual service budget for waiver participants and to reduce the reimbursement rates for waiver services (*Louisiana Register*, Volume 36, Number 8). The department promulgated an Emergency Rule which amended the provisions of the May 1, 2010 Emergency Rule to incorporate the provisions of the August 1, 2010 Emergency Rule (*Louisiana Register*, Volume 36, Number 8). The department promulgated an Emergency Rule which amended the provisions of the August 20, 2010 Emergency Rule governing the allocation of waiver opportunities in order to adopt criteria for crisis diversion, to revise the provisions governing the individuals who may be offered a waiver opportunity, and to clarify the provisions governing the Developmental Disabilities Request for Services Registry (*Louisiana Register*, Volume 37, Number 6). This Emergency Rule is being promulgated to continue the provisions of the May 20, 2011 Emergency Rule. This action is being taken to comply with the provisions of the approved waiver application and to secure enhanced federal funding.

Effective May 17, 2012, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amend the provisions governing the Residential Options Waiver.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXI. Home and Community Based Services Waivers
Subpart 13. Residential Options Waiver
Chapter 161. General Provisions
§16101. Introduction

A. The Residential Options Waiver (ROW), a 1915(c) home and community-based services (HCBS) waiver, is designed to enhance the long-term services and supports available to individuals with developmental disabilities. These individuals would otherwise require an intermediate care facility for persons with developmental disabilities (ICF/DD) level of care.

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 for Citizens with Developmental Disabilities, LR 33:2441 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 38:

§16103. Program Description

A. The ROW is designed to utilize the principles of self determination and to supplement the family and/or community supports that are available to maintain the individual in the community. In keeping with the principles of self-determination, ROW includes a self-direction option which allows for greater flexibility in hiring, training and general service delivery issues. ROW services are meant to enhance, not replace existing informal networks.

B. ROW offers an alternative to institutional care that:

1. utilizes a wide array of services, supports and residential options which best meet the individual's needs and preferences;

2. meets the highest standards of quality and national best practices in the provision of services; and

3. ensures health and safety through a comprehensive system of participant safeguards.

4. Repealed.

C. All ROW services are accessed through the support coordination agency of the participant's choice.

1. The plan of care (POC) shall be developed using a person-centered process coordinated by the participant's support coordinator.

D. All services must be prior authorized and delivered in accordance with the approved POC.

E. The total expenditures available for each waiver participant is established through an assessment of individual support needs and will not exceed the approved ICF/DD ICAP rate established for that individual.

1. When the department determines that it is necessary to adjust the ICF/DD ICAP rate, each waiver participant's annual service budget shall be adjusted to ensure that the participant's total available expenditures do not exceed the approved ICAP rate.

F. No reimbursement for ROW services shall be made for a participant who is admitted to an inpatient setting.

G. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2441 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 38:

§16105. Participant Qualifications

A. In order to qualify for services through the ROW, an individual must be offered a ROW opportunity and meet all of the following criteria:

1. have a developmental disability as specified in the Louisiana Developmental Disability Law and determined through the developmental disabilities system entry process;

2. meet the requirements for an ICF/DD level of care which requires active treatment for developmental disabilities under the supervision of a qualified developmental disabilities professional;

3. meet the financial eligibility requirements for the Louisiana Medicaid Program;

4. be a resident of Louisiana; and

5. be a citizen of the United States or a qualified alien.

B. Assurances are required that the health, safety and welfare of the individual can be maintained in the community with the provision of ROW services.

1 - 3.c. Repealed.

C. Justification must be documented in the OCDD approved POC that the ROW services are appropriate, cost effective and represent the least restrictive environment for the individual.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2441 (November 2007) , amended by the Department of Health and Hospitals, Bureau of Health Services Financing and Office for Citizens with Developmental Disabilities, LR 38:

§16106. Money Follows the Person Rebalancing Demonstration

A. The Money Follows the Person (MFP) Rebalancing Demonstration is a federal demonstration grant awarded by the Centers for Medicare and Medicaid Services to the Department of Health and Hospitals. The MFP demonstration is a transition program that targets individuals using qualified institutional services and moves them to home and community-based long-term care services.

1. For the purposes of these provisions, a qualified institution is a nursing facility, hospital, or Medicaid enrolled intermediate care facility for people with developmental disabilities (ICF/DD).

B. Participants must meet the following criteria for participation in the MFP Rebalancing Demonstration.

1. Participants with a developmental disability must:

a. occupy a licensed, approved Medicaid enrolled nursing facility, hospital or ICF/DD bed for at least three consecutive months; and

b. be Medicaid eligible, eligible for state developmental disability services, and meet an ICF/DD level of care.

2. The participant or his/her responsible representative must provide informed consent for both transition and participation in the demonstration.

C. Participants in the demonstration are not required to have a protected date on the developmental disabilities request for services registry.

D. All other ROW provisions apply to the Money Follows the Person Rebalancing Demonstration.

E. MFP participants cannot participate in ROW shared living services which serve more than four persons in a single residence.

AUTHORITY NOTE: Promulgated in 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 Office for Citizens with Developmental Disabilities, LR 38:

§16107. Programmatic Allocation of Waiver Opportunities

A. The Developmental Disabilities Request for Services Registry (RFSR), hereafter referred to as "the registry," shall be used to evaluate individuals for ROW opportunities and to fill waiver opportunities for persons with developmental disabilities, except for those specific opportunities to be provided to persons who are described in Paragraph B.1-5 of this Section, who are not on the registry.

1. The next individual on the registry shall be notified in writing that a waiver opportunity is available and that he/she is next in line to be evaluated for a possible waiver

assignment. The individual shall then choose a support coordination agency that will assist in the gathering of the documents needed for both the financial eligibility and medical certification process for the level of care determination.

a. - e. Repealed.

2. If the individual is determined to be ineligible, either financially or medically, that individual shall be notified in writing. The next individual on the registry shall be notified, as stated in Paragraph B.1 of this Section, and the process continues until an eligible individual is assigned the waiver opportunity.

3. A waiver opportunity shall be assigned to an individual when eligibility is established and the individual is certified. By accepting a ROW opportunity, this person's name will be removed from the registry.

B. ROW opportunities will be offered to the following individuals:

1. persons who meet the ICF/DD level of care and are being serviced through the OCDD Host Home contracts;

2. persons who meet the ICF/DD level of care and who need HCBS due to a health and/or safety crisis situation (crisis diversion):

a. requests for crisis diversion shall be made through OCDD. To be considered for a crisis diversion opportunity, the individual must need long-term supports, not temporary or short-term supports;

b. determination of priority for a crisis diversion ROW opportunity will be considered by OCDD for the individual who is eligible for services and meets one of the following criteria:

i. homeless;

ii. at imminent risk of losing current residential placement;

iii. referred by the judicial system;

iv. referred by child, adult, or elderly protective authorities;

v. without a caregiver and cannot adequately care for self;

vi. with a caregiver who can no longer provide care; or

vii. whose needs cannot be met within a community living situation;

3. children who:

a. are from birth to age 18;

b. reside in a nursing facility;

c. meet the high-need requirements for a nursing facility level of care, as well as the ROW level of care requirements;

d. participate in the MFP Rebalancing Demonstration; and

e. have parents or legal guardians who wish to transition them to a home and community-based residential services waiver;

4. persons who reside in a Medicaid-enrolled ICF/DD and wish to transition to a home and community-based residential services waiver through a voluntary ICF/DD bed conversion process;

5. persons who wish to transition from a supports and services center into a ROW opportunity;

6. adults in nursing facilities (NFs) who wish to transition to home and community-based residential services and who meet the level of care (LOC) that qualifies them for ROW eligibility based on their RFSR protected date on a first come, first served basis; and

7. persons residing in ICFs/DD who wish to transition to a home and community-based residential services setting and are eligible based on their RFSR protected date on a first come, first served basis.

C. The Office for Citizens with Developmental Disabilities has the responsibility to monitor the utilization of ROW opportunities. At the discretion of OCDD, specifically allocated waiver opportunities may be reallocated to better meet the needs of citizens with developmental disabilities in the State of Louisiana.

C.1. - E. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2441 (November 2007) , amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 38:

§16109. Admission Denial or Discharge Criteria

A. Admission to the ROW Program shall be denied if one of the following criteria is met.

1. The individual does not meet the financial eligibility requirements for the Medicaid Program.

2. The individual does not meet the requirements for an ICF/DD level of care.

3. The individual does not meet developmental disability system eligibility.

4. The individual is incarcerated or under the jurisdiction of penal authorities, courts or state juvenile authorities.

5. The individual resides in another state.

6. The health and welfare of the individual cannot be assured through the provision of ROW services.

7. The individual fails to cooperate in the eligibility determination process or in the development of the POC.

8. Repealed.

B. Participants shall be discharged from the ROW Program if any of the following conditions are determined:

1. loss of Medicaid financial eligibility as determined by the Medicaid Program;

2. loss of eligibility for an ICF/DD level of care;

3. loss of developmental disability system eligibility;

4. incarceration or placement under the jurisdiction of penal authorities, courts or state juvenile authorities;

5. change of residence to another state ;

6. admission to an ICF/DD or nursing facility with the intent to stay and not to return to waiver services;

7. the health and welfare of the participant cannot be assured through the provision of ROW services in accordance with the participant's approved POC;

8. the participant fails to cooperate in the eligibility renewal process or the implementation of the approved POC, or the responsibilities of the ROW participant; or

9. continuity of stay for consideration of Medicaid eligibility under the special income criteria is interrupted as

a result of the participant not receiving ROW services during a period of 30 consecutive days;

a. continuity of stay is not considered to be interrupted if the participant is admitted to a hospital, nursing facility or ICF/DD.

i. the participant shall be discharged from the ROW if the treating physician documents that the institutional stay will exceed 90 days.

10. continuity of services is interrupted as a result of the participant not receiving ROW services during a period of 30 consecutive days.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2443 (November 2007) , amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 38:

Chapter 163. Covered Services

§16301. Assistive Technology and Specialized Medical Equipment and Supplies

A. Assistive technology and specialized medical equipment and supplies (AT/SMES) are equipment, devices, controls, appliances, supplies and services which enable the participant to:

1. have life support;
2. address physical conditions;
3. increase ability to perform activities of daily living;
4. increase, maintain or improve ability to function more independently in the home and/or community; and
5. increase ability to perceive, control or communicate.

B. AT/SMES services provided through the ROW include the following services:

1. evaluation of participant needs;
2. customization of the equipment or device;
3. coordination of necessary therapies, interventions or services;
4. training or technical assistance on the use and maintenance of the equipment or device for the participant or, where appropriate, his/her family members, legal guardian or responsible representative;
5. training or technical assistance, when appropriate, for professionals, other service providers, employers, or other individuals who are substantially involved in the participant's major life functions;
6. all service contracts and warranties included in the purchase of the item by the manufacturer; and
7. equipment or device repair and replacement of batteries and other items that contribute to ongoing maintenance of the equipment or device.

a. Separate payment will be made for repairs after expiration of the warranty only when it is determined to be cost effective.

C. Approval of AT/SMES services through ROW is contingent upon the denial of a prior authorization request for the item as a Medicaid State Plan service and demonstration of the direct medical, habilitative or remedial benefit of the item to the participant.

1. Items reimbursed in the ROW may be in addition to any medical equipment and supplies furnished under the Medicaid State Plan.

a. - 7. Repealed.

D. ...

E. Service Exclusions

1. Assistive technology devices and specialized equipment and supplies that are of general utility or maintenance and have no direct medical or remedial benefit to the participant are excluded from coverage.

2. Any equipment, device, appliance or supply that is covered and has been approved under the Medicaid State Plan, Medicare or any other third party insurance is excluded from coverage.

3. For adults over the age of 20 years, specialized chairs, whether mobile or travel, are not covered.

F. Provider Participation Requirements. Providers of AT/SMES services must meet the following participation requirements. The provider must:

1. be enrolled in the Medicaid Program as a assistive devices or durable medical equipment provider and must meet all applicable vendor standards and requirement for manufacturing, design and installation of technological equipment and supplies;
2. furnish written documentation of authorization to sell, install and/or repair technological equipment and supplies from the respective manufacturer of the designated equipment and supplies; and
3. provide documentation of individual employees' training and experience with the application, use, fitting and repair of the equipment or devices which they propose to sell or repair;

a. upon completion of the work and prior to payment, the provider shall give the participant a certificate of warranty for all labor and installation and all warranty certificates.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2443 (November 2007) , amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 38:

§16303. Community Living Supports

A. Community Living Supports (CLS) are services provided to assist participants to achieve and maintain the outcomes of increased independence, productivity and inclusion in the community by utilizing teaching and support strategies. CLS may be furnished through self-direction or through a licensed, enrolled agency.

B. Community Living Supports are related to acquiring, retaining and improving independence, autonomy and adaptive skills. CLS may include the following services:

1. direct support services or self-help skills training for the performance of all the activities of daily living and self-care;
2. socialization skills training;

a. Repealed.

3. cognitive, communication tasks, and adaptive skills training; and

a. Repealed.

4. development of appropriate, positive behaviors.

a. - b. Repealed.

C. ...

D. Community Living Supports may be shared by up to three recipients who may or may not live together, and who have a common direct service provider. In order for CLS services to be shared, the following conditions must be met:

1. an agreement must be reached among all involved participants or their legal guardians regarding the provisions of shared CLS services;

2. the health and welfare of each participant must be assured though the provision of shared services;

3. services must be reflected in each participant's approved plan of care and based on an individual-by-individual determination; and

4. a shared rate must be billed.

E. - E.1. ...

2. Routine care and supervision that is normally provided by the participant's spouse or family, and services provided to a minor by the child's parent or step-parent, are not covered.

3. CLS services may not be furnished in a home that is not leased or owned by the participant or the participant's family.

4. Participants may not live in the same house as CLS staff.

5. Room and board or maintenance, upkeep and improvement of the individual's or family's residence is not covered.

6. Community Living Supports shall not be provided in a licensed respite care facility.

a. - d. Repealed.

7. Community Living Supports services are not available to individuals receiving the following services:

a. Shared Living;

b. Home Host; or

c. Companion Care.

8. Community Living Supports cannot be billed or provided for during the same hours on the same day that the participant is receiving the following services:

a. Day Habilitation;

b. Prevocational;

c. Supported Employment;

d. respite-out of home services; or

e. transportation-community access.

F. - F.1. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2443 (November 2007) , amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 38:

§16305. Companion Care

A. Companion Care services assist the recipient to achieve and/or maintain the outcomes of increased independence, productivity and inclusion in the community. These services are designed for individuals who live independently and can manage their own household with limited supports. The companion provides services in the participant's home and lives with the participant as a roommate. Companion Care services may be furnished through self-direction or through a licensed provider agency as outlined in the participant's POC. This service includes:

1. providing assistance with all of the activities of daily living as indicated in the participant's POC; and

2. community integration and coordination of transportation services, including medical appointments.

3. Repealed.

B. Companion Care services can be arranged by licensed providers who hire companions, or services can be self-directed by the participant. The companion is a principal care provider who is at least 18 years of age who lives with the participant as a roommate and provides services in the participant's home.

1. - 2. Repealed.

C. Provider Responsibilities

1. The provider organization shall develop a written agreement as part of the participant's POC which defines all of the shared responsibilities between the companion and the participant. The written agreement shall include, but is not limited to:

a. - c. …

2. Revisions to this agreement must be facilitated by the provider and approved by the support team. Revisions may occur at the request of the participant, the companion, the provider or other support team members.

3. The provider is responsible for performing the following functions which are included in the daily rate:

a. arranging the delivery of services and providing emergency services as needed;

b. making an initial home inspection to the participant's home, as well as periodic home visits as required by the department;

c. contacting the companion a minimum of once per week or as specified in the participant's POC; and

d. providing 24-hour oversight and supervision of the Companion Care services, including back-up for the scheduled and unscheduled absences of the companion.

4. The provider shall facilitate a signed written agreement between the companion and the participant.

a. - b. Repealed.

D. Companion Responsibilities

1. The companion is responsible for:

a. participating in and abiding by the POC;

b. …

c. purchasing his/her own food and personal care items.

E. Service Limits

1. The provider agency must provide relief staff for scheduled and unscheduled absences, available for up to 360 hours (15 days) as authorized by the POC. Relief staff for scheduled and unscheduled absences is included in the provider agency's rate.

F. Service Exclusions

1. Companion Care is not available to individuals receiving the following services:

a. Respite Care Service–Out of Home;

b. Shared Living;

c. Community Living Supports; or

d. Host Home.

2. - 2.d.Repealed.

G. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2444 (November 2007) , amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 38:

§16307. Day Habilitation Services

A. Day Habilitation services are aimed at developing activities and/or skills acquisition to support or further community integration opportunities outside of an individual's home. These activities shall promote independence, autonomy and assist the participant with developing a full life in his community. The primary focus of Day Habilitation services is acquisition of new skills or maintenance of existing skills based on individualized preferences and goals.

1. The skill acquisition and maintenance activities should include formal strategies for teaching the individualized skills and include the intended outcome for the participant.

2. …

3. As an individual develops new skills, training should progress along a continuum of habilitation services offered toward greater independence and self-reliance.

B. Day Habilitation services shall:

1. focus on enabling participants to attain maximum skills;

2. be coordinated with any physical, occupational or speech therapies included in the participant's POC;

3. - 4. …

a. services are based on a one-half day unit of service and on time spent at the service site by the participant;

b. the one-half day unit of service requires a minimum of 2.5 hours;

c. two one-half day units may be billed if the participant spends a minimum of 5 hours at the service site;

d. any time less than 2.5 hours of services is not billable or payable; and

e. no rounding up of hours is allowed.

C. The provider is responsible for all transportation from the agency to all work sites related to the provision of service.

1. Transportation to and from the service site is offered and billable as a component of the Day Habilitation service; however, transportation is payable only when a Day Habilitation service is provided on the same day.

2. - 4.c. Repealed.

D. Participants may receive more than one type of vocational/habilitative service per day as long as the service and billing criteria are followed and as long as requirements for the minimum time spent on site are adhered to.

E. Service Exclusions

1. Time spent traveling to and from the day habilitation program site shall not be included in the calculation of the total number of day habilitation service hours provided per day.

a. Travel training for the purpose of teaching the participant to use transportation services may be included in determining the total number of service hours provided per day, but only for the period of time specified in the POC.

2. Transportation-Community Access will not be used to transport ROW participants to any day habilitation services.

3. Day habilitation services cannot be billed or provided during the same hours on the same day as any of the following services:

a. Community Living Supports;

b. Professional services, except those direct contacts needed to develop a behavioral management plan or any other type of specialized assessment/plan; or

c. Respite Care Services–Out of Home.

F. Provider Qualifications. Providers must be licensed as an adult day care agency.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2445 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 38:

§16309. Dental Services

A. Dental services are available to adult participants over the age of 21 as a component of the ROW. Covered dental services include:

1. diagnostic services;
2. preventative services;
3. restorative services;
4. endodontic services;
5. periodontal services;
6. removable prosthodontics services;
7. maxillofacial prosthetics services;
8. fixed prosthodontics services;
9. oral and maxillofacial surgery
10. orthodontic services; and
11. adjunctive general services.

B. Service Exclusion. Participants must first access dental services covered under the Medicaid State Plan before utilizing dental services through the Residential Options Waiver.

C. Provider Qualifications. Providers must have a current, valid license to provide dental services from the Louisiana State Board of Examiners for Dentistry for the specific dental services in all specialty areas provided to the participant.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2445 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 38:

§16311. Environmental Accessibility Adaptations

A. Environmental Accessibility Adaptations are physical adaptations to the participant's home or vehicle which must be specified in the POC as necessary to enable the participant to integrate more fully into the community and to ensure his/her health, welfare and safety.

1. Reimbursement shall not be paid until receipt of written documentation that the job has been completed to the satisfaction of the participant.

B. Environmental adaptation services to the home and vehicle include the following:

1. assessments to determine the types of modifications that are needed;

2. training the participant and appropriate direct care staff in the use and maintenance of devices, controls, appliances and related items;

3. repair of all equipment and/or devices, including replacement of batteries and other items that contribute to the ongoing maintenance of the adaptation(s); and

4. all service contracts and warranties which the manufacturer includes in the purchase of the item.

C. In order to accommodate the medical equipment and supplies necessary to assure the welfare of the participant, home accessibility adaptations may include the following:

1. installation of ramps and grab-bars;

2. widening of doorways;

3. modification of bathroom facilities; or

4. installation of specialized electric and plumbing systems.

D. Home accessibility adaptations may be applied to rental or leased property only under the following conditions:

1. the participant is renting or leasing the property; and

2. written approval is obtained from the landlord and OCDD.

E. - F.4.g. ...

5. Home modifications shall not be paid for in the following residential services:

a. Host Home; or

b. Shared Living settings which are provider owned or leased.

G. Vehicle adaptations are modifications to an automobile or van that is the waiver participant's primary means of transportation in order to accommodate his/her special needs. .

1. The modifications may include the installation of a lift or other adaptations to make the vehicle accessible to the participant or for him/her to drive.

2. Repealed.

H. Service Exclusions for Vehicle Adaptations

1. Payment will not be made to:

a. adapt vehicles that are owned or leased by paid caregivers or providers of waiver services, or

b. to purchase or lease a vehicle.

2. - 4. ...

I. Provider Responsibilities

1. The environmental accessibility adaptation(s) must be delivered, installed, operational and reimbursed in the POC year in which it was approved.

a. - b. Repealed.

2. A written itemized detailed bid, including drawings with the dimensions of the existing and proposed floor plans relating to the modifications, must be obtained and submitted for prior authorization.

a. Repealed.

3. Vehicle modifications must meet all applicable standards of manufacture, design and installation for all adaptations to the vehicle.

4. Upon completion of the work and prior to payment, the provider shall give the participant a certificate of warranty for all labor and installation and all warranty certificates from manufacturers.

J. Provider Qualifications. In order to participate in the Medicaid Program, providers must meet the following qualifications.

1. Providers of environmental accessibility adaptations for the home must be registered through the Louisiana State Licensing Board for Contractors as a home improvement contractor.

a. In addition, these providers must:

i. meet the applicable state and/or local requirements governing their licensure or certification; and

ii. comply with the applicable state and local building or housing code standards governing home modifications.

b. The individuals performing the actual service (building contractors, plumbers, electricians, carpenters, etc.) must also comply with the applicable state and/or local requirements governing individual licensure or certification.

2. Providers of environmental accessibility adaptations to vehicles must be licensed by the Louisiana Motor Vehicle Commission as a specialty vehicle dealer and accredited by the National Mobility Equipment Dealers Association under the Structural Vehicle Modifier category.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2446 (November 2007) , amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 38:

§16313. Host Home

A. Host Home services assist participants in meeting their basic adaptive living needs and offer direct support where required. Participants are afforded a welcoming, safe and nurturing family atmosphere in a family home environment in which the participant may receive supports, services and training in accordance with the POC. Host Home services take into account compatibility, including individual interests, age, needs for privacy, supervision and support needs. These services are provided in a private home by a contractor of the host home agency who lives in the home, and either rents or owns the residence. The contractor utilizes specific teaching strategies to encourage independence and autonomy when required as a part of the participant's POC.

1. Repealed.

B. Host Home services include:

1. assistance with the activities of daily living sand adaptive living needs;

2. assistance to develop leisure interests and daily activities in the home setting;

3. assistance to develop relationships with other members of the household;

4. supports in accessing community services, activities and pursuing and developing recreational and social interests outside the home; and

5. teaching community living skills to achieve participant's goals concerning community and social life as well as to maintain contacts with biological families and natural supports.

C. Host Home provider agencies oversee and monitor the Host Home contractor to ensure the availability, quality, and continuity of services as specified in the ROW manual. Host Home provider agencies are responsible for the following functions:

1. arranging for a host home;

2. making an initial and periodic inspections of the host home; and

3. providing 24-hour oversight and supervision of Host Home services including providing emergency services and back-up for the scheduled and nonscheduled absences of the contractor;

a. Repealed.

D. Host Home contractors are responsible for:

1. assisting with the development of the participant's POC and complying with the provisions of the plan;

2. maintaining and providing data to assist in the evaluation of the participant's personal goals

3. maintaining adequate records to substantiate service delivery and producing such records upon request;

4. undergoing any specialized training deemed necessary by the provider agency, or required by the department, to provide supports in the Host Home setting; and

5. immediately reporting to the department and applicable authorities any major issues or concerns related to the participant's safety and well-being.

6. - 10. Repealed.

E. ...

F. Host home contractors serving adults are required to be available for daily supervision, support needs or emergencies as outlined in the adult participant's POC based on medical, health and behavioral needs, age, capabilities and any special needs.

1. - I.1. ...

2. Separate payment will not be made for the following residential service models if the participant is receiving Host Home services:

a. - 3. …

J. Provider Qualifications

1. All agencies must:

a. have experience in delivering therapeutic services to persons with developmental disabilities;

b. have staff who have experience working with persons with developmental disabilities;

c. screen, train, oversee and provide technical assistance to the Host Home contractors in accordance with OCDD requirements, including the coordination of an array of medical, behavioral and other professional services appropriate for persons with developmental disabilities; and

d. provide on-going assistance to the Host Home contractors so that all HCBS requirements are met.

2. Agencies serving children must be licensed by the Department of Social Services as a Class "A" Child Placing Agency.

3. Agencies serving adults must be licensed by the Department of Health and Hospitals as a provider of Substitute Family Care services.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2447 (November 2007) , amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 38:

§16315. Intensive Community Supports

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 for Citizens with Developmental Disabilities, LR 33:2448 (November 2007), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 38:

§16317. Nursing Services

A. Nursing services are medically necessary services ordered by a physician and provided by a licensed registered nurse or a licensed practical nurse within the scope of the State's Nurse Practice Act. Nursing services provided in the ROW are an extension of nursing services provided through the Home Health Program covered under the Medicaid State Plan.

1. The services require an individual nursing service plan and must be included in the plan of care.

2. The nurse must submit updates of any changes to the individual's needs and/or the physician's orders to the support coordinator every 60 days.

3. Repealed.

B. Nursing consulting services include assessments and health related training and education for participants and caregivers.

1. - 2. ...

3. The health related training and education service is the only nursing service which can be provided to more than one participant simultaneously. The cost of the service is allocated equally among all participants.

C. Service Requirement. Participants over the age of 21 years must first exhaust all available nursing visits provided under the Medicaid State Plan prior to receiving services through the waiver program.

D. Provider Qualifications

1. In order to participate in the Medicaid Program, the provider agency must possess a current, valid license as a home health agency or, if under the ROW Shared Living Conversion Model, be an enrolled Shared Living Services agency with a current, valid license as a Supervised Independent Living agency.

E. Staffing Requirements

1. ...

2. The RN or the LPN must possess one year of service delivery experience to persons with developmental disabilities defined under the following criteria:

a. full-time experience gained in advanced and accredited training programs (i.e. masters or residency level training programs), which includes treatment services for persons with developmental disabilities;

b. paid, full-time nursing experience in specialized service/treatment settings for persons with developmental disabilities (i.e. intermediate care facilities for persons with developmental disabilities;

c. paid, full-time nursing experience in multi-disciplinary programs for persons with developmental disabilities (i.e. mental health treatment programs for persons with dual diagnosis – mental illness and developmental disabilities); or

d. paid, full-time nursing experience in specialized educational, vocational and therapeutic programs or settings for persons with developmental disabilities (i.e. school special education program).

3. Two years of part-time experience with a minimum of 20 hours per week may be substituted for one year of full-time experience.

4. The following activities do not qualify for the required experience:

a. volunteer nursing experience; or

b. experience gained by caring for a relative or friend with developmental disabilities.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2449 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 38:

§16319. One Time Transitional Services

A. One Time Transitional Services are one-time, set-up services to assist individuals in making the transition from an ICF/DD to their own home or apartment in the community of their choice.

1. - 1.d.iii. Repealed.

B. Allowable transitional expenses may include:

1. nonrefundable security deposits that do not include rental payments;

2. set up fees for utilities;

3. essential furnishings to establish basic living arrangements, including:

a. bedroom and living room furniture;

b. table and chairs;

c. window blinds; and

d. food preparation items and eating utensils;

4. set-up/deposit fee for telephone service;

5. moving expenses; and

6. health and safety assurances including:

a. pest eradication; or

b. one-time cleaning prior to occupancy.

C. Service Limits

1. One time transitional expenses are capped at $3,000 per person over a participant's lifetime.

D. Service Exclusions

1. One time transitional services may not be used to pay for:

a. housing, rent or refundable security deposits; or

b. furnishings or setting up living arrangements that are owned or leased by a waiver provider.

2. One time transitional services are not available to participants who are receiving Host Home services.

3. One time transitional services are not available to participants who are moving into a family member's home.

E. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2449 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 38:

§16321. Personal Emergency Response System (PERS)

A. Personal Emergency Response System (PERS) is a system connected to the participant's telephone that incorporates an electronic device which enables the participant to secure help in an emergency. The device can be worn as a portable "help" button and when activated, a response center is contacted.

B. Participant Qualifications. PERS services are available to individuals who:

1. …

2. are unable to use other communication systems due to experiencing difficulty in summoning emergency assistance; or

3. …

C. PERS services includes rental of the electronic device, initial installation, training the participant to use the equipment, and monthly maintenance fees.

D. Service Exclusions

1. Separate payment will not be made for Shared Living Services.

E. Provider Qualifications

1. The provider must be authorized by the manufacturer to install and maintain equipment for personal emergency response systems.

2. The provider shall be in compliance with all applicable federal, state, and local regulations governing the operation of personal emergency response systems including staffing requirements for the response center.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2249 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 38:

§16323. Prevocational Services

A. Prevocational Services are activities designed to assist participants in acquiring and maintaining basic work-related skills necessary to acquire and retain meaningful employment. Services should include real and simulated employment tasks to assist in determining their vocational potential. Overall goals include regular community inclusion and development of work skills and habits to improve the participant's employability. Services must be reflective of the participant's POC and focused toward habilitation rather than teaching a specific job skill.

1. - 2.b....

B. In the event participants are compensated while receiving prevocational services, the compensation must be in accordance with the United States Fair Labor Standards Act of 1985.

1. If participants are paid in excess of 50 percent of the minimum wage, the provider must, at a minimum:

a. - c. ...

C. The provider is responsible for all transportation from the agency to all vocational sites related to provision of services.

1. Travel training may be included in determining the number of hours of services provided per day for the period of time specified in the participant's POC.

a. Repealed.

D. Service Limits

1. Services shall be limited to no more than eight hours per day, five days per week.

2. Services are based on a one-half day unit of service and time spent at the service site by the participant.

a. the one-half day unit of service requires a minimum of 2.5 hours at the service site by the participant;

b. two one-half day units may be billed in one day if the participant spends a minimum of 5 hours at the service site;

c. any time less than 2.5 hours of service is not billable or payable; and

d. no rounding up of hours is allowed.

3. Participants may receive more than one vocational/habilitative service per day as long as the billing criteria are followed for each service and the requirements for the minimum time spent on site are adhered to.

a. - 5.a. Repealed.

E. Service Exclusions

1. Prevocational Services are not available to participants who are eligible to participate in programs funded under the Rehabilitation Act of 1973 or the Individuals with Disabilities Education Act.

2. Multiple vocational/habilitative services cannot be provided or billed for during the same hours on the same day as the following services:

a. Community Living Supports;

b. Professional Services, except those direct contacts needed to develop a behavioral management plan or other type of specialized assessment/plan; or

c. Respite Care Services–Out of Home.

3. Transportation to and from the service site is only payable when a vocational/habilitative service is provided on the same day.

4. Time spent in traveling to and from the prevocational program site shall not be included in the calculation of the total number of service hours provided per day.

a. During travel training, providers must not also bill for the transportation component as this is included in the rate for the number of service hours provided.

5. Transportation-Community Access shall not be used to transport ROW participants to any Prevocational Services.

F. Provider Qualifications. Providers must have a current, valid license as an adult day care center.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2450 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 38:

§16325. Professional Services

A. Professional Services are direct services to participants, based on need, that may be utilized to increase the individual's independence, participation and productivity in the home, work and community. Service intensity, frequency and duration will be determined by individual need. Professional services must be delivered with the participant present and in accordance with approved POC.

1. - 8.a. Repealed.

B. Professional services include the services provided by the following licensed professionals:

1. occupational therapist;
2. physical therapist;
3. speech therapist;
4. registered dietician;
5. social worker; and
6. psychologist.

C. Professional services may be utilized to:

1. perform assessments and/or re-assessments specific to professional disciplines to accomplish the desired outcomes for the participant and to provide recommendations, treatment, and follow-up;

a. - b. Repealed.

2. provide training or therapy to a participant and/or natural and formal supports necessary to either develop critical skills that may be self-managed by the participant or maintained according to the participant's needs;

3. intervene in and stabilize a crisis situation (behavioral or medical) that could result in the loss of home and community-based services, including the development, implementation, monitoring, and modification of behavioral support plans;

a. Repealed.

4. provide consultative services and recommendations;

5. provide necessary information to the participant, family, caregivers, and/or team to assist in planning and implementing services or treatment;

6. provide caregiver counseling for the participant's natural, adoptive, foster, or host family members in order to develop and maintain healthy, stable relationships among all caregivers, including family members, to support meeting the needs of the participant;

a. emphasis is placed on the acquisition of coping skills by building upon family strengths; and

b. services are intended to maximize the emotional and social adjustment and well-being of the individual, family, and caregiver; and

7. provide nutritional services, including dietary evaluation and consultation with individuals or their care provider.

a. Services are intended to maximize the individual's nutritional health.

NOTE: Psychologists and social workers will provide supports and services consistent with person-centered practices and Guidelines for Support Planning.

D. Service Exclusions

1. Professional services may only be furnished and reimbursed through ROW when the services are medically necessary, or have habilitative or remedial benefit to the participant.

a. Repealed.

2. Recipients who are participating in ROW and are up to the age of 21 must access these services through the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program.

a. - d. Repealed.

E. Provider Qualifications

1. Enrollment of individual practitioners. Individual practitioners who enroll as providers of professional services must:

a. have a current, valid license from the appropriate governing board of Louisiana for that profession; and

b. possess one year of service delivery experience with persons with developmental disabilities.

c. In addition, the specific service delivered must be consistent with the scope of the license held by the professional.

2. Provider agency enrollment of professional services.

a. The following provider agencies may enroll to provide professional services:

i. a Medicare certified free-standing rehabilitation center;

ii. a licensed home health agency;

iii. a supervised independent living agency licensed by the department to provide shared living services; or

iv. a substitute family care agency licensed by the department to provide host home services.

b. Enrolled provider agencies may provide professional services by one of the following methods:

i. employing the professionals; or

ii. contracting with the professionals.

c. Provider agencies are required to verify that all professionals employed by or contracted with their agency meet the same qualifications required for individual practitioners as stated in §16325.E.1.a-c.

3. All professionals delivering professional services must meet the required one year of service delivery experience as defined by the following:

a. full-time experience gained in advanced and accredited training programs (i.e. master's or residency level training programs), which includes treatment services for persons with developmental disabilities;

b. paid, full-time experience in specialized service/treatment settings for persons with developmental disabilities (i.e. ICFs/DD);

c. paid, full-time experience multi-disciplinary programs for persons with developmental disabilities (i.e. mental health treatment programs for persons with dual diagnosis – mental illness and developmental disability); or

d. paid, full-time experience in specialized educational, vocational, and therapeutic programs or settings for persons with developmental disabilities (i.e. school special education program).

e. Two years of part-time experience with a minimum of 20 hours per week of the qualifying work experience activities may be substituted for one year of full-time experience.

4. The following activities do not qualify for the professional's required service delivery experience:

a. volunteer experience; or

b. experience gained by caring for a relative or friend with developmental disabilities.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2450 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 38:

§16327. Respite Care Services–Out of Home

A. Respite Care Services–Out of Home are supports and services provided for the relief of those unpaid caregivers who normally provide care to participants who are unable to care for themselves. These services are furnished on a short-term basis in a licensed respite care center.

1. A licensed respite care facility shall insure that community activities are available to the participant in accordance with the approved POC, including transportation to and from these activities.

a. …

2. While receiving respite care services, the participant's routine is maintained in order to attend school, school activities, or other community activities that he/she would typically participate in if not in the center-based respite facility.

B. Service Limits

1. Respite Care Services are limited to 720 hours per participant per POC year.

2. Requests for an extension of the service limit are subject to the department's established approval process and require proper justification and documentation.

C. Service Exclusions

1. …

2. Respite Care Services-Out of Home may not be billed for participants receiving the following services:

a. Shared Living;

b. Companion Care; or

c. Host Home.

d. Repealed.

D. Provider Qualifications. The provider must possess a current, valid license as a respite care center issued by the department.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2451 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 38:

§16329. Shared Living Services

A. Shared Living Services assist the participant in acquiring, retaining and improving the self-care, adaptive and leisure skills needed to reside successfully in a shared home setting within the community. Services are chosen by the participant and developed in accordance with his/her goals and wishes with regard to compatibility, interests, age and privacy in the shared living setting.

1. A Shared Living services provider delivers supports which include:

a. 24-hour staff availability;

b. assistance with activities of daily living included in the participant's POC;

c. a daily schedule;

d. health and welfare needs;

e. transportation;

f. any non-residential ROW services delivered by the Shared Living services provider; and

g. other responsibilities as required in each participant's POC.

2. - 3. Repealed.

B. An ICF/DD may elect to permanently relinquish its ICF/DD license and all of its Medicaid Facility Need Review approved beds from the total number of Certificate of Need (CON) beds for that home and convert it into a shared living waiver home or in combination with other ROW residential options as deemed appropriate in the approved conversion agreement.

1. In order to convert, provider request must be approved by the department and by OCDD.

2. ICF/DD residents who choose transition to a shared living waiver home must also agree to conversion of their residence.

3. If choosing ROW services, persons may select any ROW services and provider(s) based upon freedom of choice.

C. Shared Living Options

1. Shared Living Conversion Option. The shared living conversion option is only allowed for providers of homes which were previously licensed and Medicaid certified as an ICF/DD for up to a maximum of eight licensed and Medicaid-funded beds on October 1, 2009.

a. The number of participants for the shared living conversion option shall not exceed the licensed and Medicaid-funded bed capacity of the ICF/DD on October 1, 2009, or up to six individuals, whichever is less.

b. The ICF/DD used for the shared living conversion option must meet the department's operational, programming and quality assurances of health and safety for all participants.

c. The provider of shared living services is responsible for the overall assurances of health and safety for all participants.

d. The provider of shared living conversion option may provide nursing services and professional services to participants utilizing this residential services option.

2. Shared Living Non-Conversion (New) Option. The shared living non-conversion option is allowed only for new or existing ICF/DD providers to establish a shared living waiver home for up to a maximum of three individuals.

a. The shared living waiver home must be located separate and apart from any ICF/DD.

b. The shared living waiver home must be either a home owned or leased by the waiver participants or a home owned or leased and operated by a licensed shared living provider.

c. The shared living waiver home must meet department's operational, programming and quality assurances for home and community-based services.

d. The shared living provider is responsible for the overall assurances of health and safety for all participants.

D. Service Exclusions

1. ...

2. Payments shall not be made for environmental accessibility adaptations when the provider owns or leases the residence.

3. Participants may receive one-time transitional services only if the participant owns or leases the home and the service provider is not the owner or landlord of the home.

a. - d. Repealed.

4. MFP participants cannot participate in ROW shared living services which serve more than four persons in a single residence.

5. Transportation-Community Access services cannot be billed or provided for participants receiving Shared Living services, as this is a component of Shared Living services.

6. The following services are not available to participants receiving shared living services:

a. Community Living Supports;

b. Respite Care Services;

c. Companion Care;

d. Host Home; or

e. Personal emergency response system.

E. Provider Qualifications. Providers must be approved by the department and have a current, valid license as a Supervised Independent Living agency.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2452 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 38:

§16331. Specialized Medical Equipment and Supplies

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 for Citizens with Developmental Disabilities, LR 33:2452 (November 2007), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 38:

§16333. Support Coordination

A. Support Coordination services are provided to all ROW participants to assist them in gaining access to needed waiver services, Medicaid State Plan services, as well as needed medical, social, educational and other services, regardless of the funding source for the services. Support coordinators provide information and assistance to waiver participants by directing and managing their services in compliance with the rules and regulations governing case management services.

1. Support Coordinators shall be responsible for ongoing monitoring of the provision of services included in the participant's approved POC.

2. Support coordinators shall also participate in the evaluation and re-evaluation of the participant's POC.

B. Support coordinators are responsible for providing assistance to participants who choose the self-direction option with their review of the Self-Direction Employer

Handbook and for being available to these participants for on-going support and help with carrying out their employer responsibilities.

C. Provider Qualifications. Providers must have a current, valid license as a case management agency and meet all other requirements for targeted case management services as set forth in LAC 50:XV.Chapter 105 and the Medicaid Targeted Case Management Manual.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2453 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 38:

§16335. Supported Employment

A. Supported Employment provides assistance in an integrated work setting to assist in the achievement and attainment of work related skills and includes on-going support to maintain employment.

1. - 3. Repealed.

B. Supported Employment services include:

1. …

2. services that assist a participant to develop and operate a micro-enterprise;

a. This service consists of:

i. assisting the participant to identify potential business opportunities;

ii. …

iii. identification of the supports that are necessary in order for the participant to operate the business; and

iv. …

3. enclave services which is an employment situation in competitive employment in which a group of eight or fewer workers with disabilities are working at a particular work setting. The workers with disabilities may be disbursed throughout the company and among workers without disabilities or congregated as a group in one part of the business;

4. mobile work crews which is a group of eight or fewer workers with disabilities who perform work in a variety of locations under the supervision of a permanent employment specialist (job coach/supervisor); and

5. all transportation from the agency to all work sites related to provision of the service. The provider is responsible for furnishing the transportation.

C. Service Limits

1. The required minimum number of service hours per day per participant is as follows for:

a. individual placement services, the minimum is one hour;

b. services that assist a participant to develop and operate a micro-enterprise, the minimum is one hour;

c. an enclave, the minimum is 2.5 hours; and

d. a mobile work crew, the minimum is 2.5 hours.

2. Two half-day units may be billed if the participant spends a minimum of five hours at the service site.

3. Participants may receive more than one vocational or habilitative service per day as long as the service and billing requirements for each service are met.

4. Transportation to and from the service site is offered and billable as a component of the support employment service; however, transportation is payable only when a supported employment service is provided on the same day.

D. Service Exclusions

1. ...

2. Any time less than one hour for individual placement and micro-enterprise is not billable or payable.

3. - 3.c….

4. Any time less than 2.5 hours for enclaves and mobile crews is not billable or payable.

5. ...

a. Travel training for the purpose of teaching the recipient how to use transportation services may be included in determining the total service numbers hours provided per day, but only for the period of time specified in the POC.

6. - 6.c….

7. Services are not available to individuals who are eligible to participate in programs funded under the Rehabilitation Act of 1973 or the Individuals with Disabilities Education Act.

8. No rounding up of hours is allowed.

E. Provider Qualifications. In order to enroll in the Medicaid Program, providers must have a compliance certificate from the Louisiana Rehabilitation Services as a Community Rehabilitation Program or a current, valid license as an Adult Day Care Center.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2453 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 38:

§16337. Transportation-Community Access

A. Transportation-community access services enable participants to gain access to waiver and other community services, activities and resources. These services are necessary to increase independence, productivity, community inclusion and to support self-directed employees benefits as outlined in the participant's POC. Transportation-community access services shall be offered as documented in the participant's approved POC.

1. The participant must be present to receive this service.

2. Whenever possible, the participant must utilize the following resources for transportation:

a. - b. ...

B. Service Limits

1. Community access trips are limited to three per day and must be arranged for geographic efficiency.

2. Greater than three trips per day require approval from the department or its designee.

a. Repealed.

C. Service Exclusions

1. Transportation services offered through ROW shall not replace the medical transportation services covered under the Medicaid State Plan or transportation services provided as a means to get to and from school.

2. Separate payment will not be made for transportation-community access and the following services:

a. Shared Living Services; or

b. Community Living Services.

3. Transportation-community access will not be used to transport participants to Day Habilitation, Pre-vocational, or Supported Employment services.

D. Provider Qualifications. Friends and family members who furnish Transportation-Community Access services to waiver participants must be enrolled as Medicaid Friends and Family Transportation providers.

1. In order to receive reimbursement for transporting Medicaid recipients to waiver services, family and friends must maintain:

a. the state minimum automobile liability insurance coverage;

b. a current state inspection sticker; and

c. a current valid driver's license.

2. No special inspection by the Medicaid agency will be conducted.

a. - b. Repealed.

3. Documentation of compliance with the three listed requirements for this class of provider must be submitted when enrollment in the Medicaid agency is sought. Acceptable documentation shall be the signed statement of the individual enrolling for payment that all three requirements are met.

a. The statement must also have the signature of two witnesses.

4. Family and friends transportation providers are limited to transporting up to three specific waiver participants.

E. Vehicle Requirements. All vehicles utilized by for profit and non-profit transportation services providers for transporting waiver recipients must comply with all of the applicable state laws and regulations and are subject to inspection by the department or its designee.

1. - G. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2454 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 38:

Chapter 165. Self-Direction Initiative

§16501. Self-Direction Service Option

A. The self-direction initiative is a voluntary, self-determination option which allows the waiver participant to coordinate the delivery of designated ROW services through an individual direct support professional rather than through a licensed, enrolled provider agency. Selection of this option requires that the recipient utilize a payment mechanism approved by the department to manage the required fiscal functions that are usually handled by a provider agency.

B. Recipient Responsibilities. Waiver participants choosing the self-direction service option must understand the rights, risks and responsibilities of managing their own care and individual budget. If the participant is unable to make decisions independently, he must have an authorized representative who understands the rights, risks and responsibilities of managing his care and supports within his individual budget. Responsibilities of the participant or authorized representative include:

1. - 2. …

a. Participants must adhere to the health and welfare safeguards identified by the support team, including:

i. …

ii. compliance with the requirement that employees under this option must have criminal background checks prior to working with waiver participants;

3. …

a. This annual budget is determined by the recommended service hours listed in the participant's POC to meet his needs.

b. The participant's individual budget includes a potential amount of dollars within which the participant, or his authorized representative, exercises decision-making responsibility concerning the selection of services and service providers.

C. Termination of Self-Direction Service Option. Termination of participation in the self-direction service option requires a revision of the POC, the elimination of the fiscal agent and the selection of the Medicaid-enrolled waiver service provider(s) of choice.

1. Voluntary termination. The waiver participant may choose at any time to withdraw from the self-direction service option and return to the traditional provider agency management of services.

2. Involuntary termination. The department may terminate the self-direction service option for a participant and require him to receive provider-managed services under the following circumstances:

a. the health or welfare of the participant is compromised by continued participation in the self-direction service option;

b. the participant is no longer able to direct his own care and there is no responsible representative to direct the care;

c. there is misuse of public funds by the participant or the authorized representative; or

d. over three payment cycles in the period of a year, the participant or authorized representative:

i. …

ii. fails to follow the Personal Purchasing Plan and the POC;

iii. - D. …

E. Relief coverage for scheduled or unscheduled absences, which are not classified as respite care services, can be covered by other participant-directed providers and the terms can be part of the agreement between the participant and the primary Companion Care provider.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2455 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 38:

Chapter 167. Provider Participation

§16701. General Provisions

A. …

1. meet all of the requirements for licensure and the standards for participation in the Medicaid Program as a home and community-based services provider in accordance with state laws and the rules promulgated by the department;

2. comply with the regulations and requirements specified in LAC 50:XXI, Subparts 1 and 13 and the ROW provider manual;

3. comply with all of the state laws and regulations for conducting business in Louisiana, and when applicable, with the state requirements for designation as a non-profit organization; and

4. comply with all of the training requirements for providers of waiver services.

B. Providers must maintain adequate documentation to support service delivery and compliance with the approved POC and provide said documentation upon the department's request.

C. In order for a provider to bill for services, the waiver participant and the direct service worker or professional services practitioner rendering service must be present at the time the service is rendered.

1. Exception. The following services may be provided when the participant is not present:

a. - c. ...

2. All services must be documented in service notes which describe the services rendered and progress towards the participant's personal outcomes and his/her POC.

D. If transportation is provided as part of a waiver service, the provider must comply with all of the state laws and regulations applicable to vehicles and drivers.

E. All services rendered shall be prior approved and in accordance with the POC.

F. Providers, including direct care staff, cannot live in the same residence as the participant, except Host Home contractors and Companion Care workers.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2455 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 38:

§16703. Staffing Restrictions and Requirements

A. Payments shall not be made to persons who are legally responsible for the care of the waiver participants which include:

1. parents of minor children;

2. spouses for each other;

3. legal guardians for adults or children with developmental disabilities; or

4. parents for their adult child with developmental disabilities, regardless of the legal status of the adult child.

B. In order to receive payment, relatives must meet the criteria for the provision of the service and the same provider qualifications specified for the service as other providers not related to the participant.

1. Relatives must also comply with the following requirements:

a. become an employee of the participant's chosen waiver provider agency;

b. become a Medicaid enrolled provider agency; or

c. if the self-direction option is selected, relatives must:

i. become an employee of the self-direction participant; and

ii. have a Medicaid provider agreement executed by the fiscal agent as authorized by the Medicaid agency.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 38:

Chapter 169. Reimbursement

§16901. Reimbursement Methodology

A. Reimbursement for the following services shall be a prospective flat rate for each approved unit of service provided to the waiver participant. One quarter hour (15 minutes) is the standard unit of service, which covers both the service provision and administrative costs for these services:

1. - 3.e.…

f. registered dietician;

4. Support Coordination; or

5. Supported Employment:

a. individual placement; and

b. micro-enterprise.

6. Repealed.

B. The following services are reimbursed at the cost of the adaptation device, equipment or supply item:

1. Environmental Accessibility Adaptations; and

a. Upon completion of the environmental accessibility adaptations and prior to submission of a claim for reimbursement, the provider shall give the participant a certificate of warranty for all labor and installation work and supply the participant with all manufacturers' warranty certificates.

2. Assistive Technology/Specialized Medical Equipment and Supplies.

3. Repealed.

C. The following services are reimbursed at a per diem rate:

1. …

2. Companion Cares; and

3. Shared Living Services;

a. Per diem rates are established based on the number of individuals sharing the living service module for both Shared Living Non-Conversion and Shared Living Conversion Services.

D. The following services are reimbursed at a per one-half-day unit of service based on a minimum of 2.5 hours spent on-site by the participant:

1. Day Habilitation;

2. Pre-vocational; and

3. Supported Employment:

a. mobile crew; and

b. enclave.

E. ...

F. Nursing services are reimbursed at either an hourly or per visit rate for the allowable procedure codes.

G. ...

H. Transition expenses from an ICF/DD or nursing facility to a community living setting are reimbursed at the cost of the service(s) up to a lifetime maximum rate of $3,000.

I. - J. ...

K. Effective for dates of service on or after August 1, 2010, the reimbursement for Residential Options Waiver

services shall be reduced by 2 percent of the rates in effect on July 31, 2010.

1. The following services shall be excluded from the rate reduction:

a. personal emergency response services;

b. environmental accessibility adaption services;

c. specialized medical equipment and supplies; and

d. support coordination services.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2456 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 38:

§16903. Direct Support Staff Wages

A. In order to maximize staffing stability and minimize turnover among direct support staff, providers of the following services furnished under the Residential Options Waiver are required to pay direct support workers an hourly wage that is at least 29 percent ($1.50) more than the federal minimum wage in effect as of July 23, 2007 or the current federal minimum wage, whichever is higher:

1. Community Living Supports;
2. Respite Services-Out of Home;
3. Shared Living;
4. Day Habilitation;
5. Prevocational services; and
6. Supported Employment.
7. 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 for Citizens with Developmental Disabilities, LR 33:2456 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 38:

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

Bruce D. Greenstein
Secretary

1204#057

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

Inpatient Hospital Services
Free-Standing Psychiatric Hospitals
Low Income and Needy Care Collaboration
(LAC 50:V.959)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:V.959 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

Due to a continuing budgetary shortfall in state fiscal year 2011, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for inpatient hospital services to reduce the reimbursement rates paid to non-rural, non-state hospitals, including free-standing psychiatric hospitals (*Louisiana Register*, Volume 37, Number 7).

The department promulgated an Emergency Rule which amended the provisions of the July 2011 final Rule in order to provide for a supplemental Medicaid payment to non-rural, non-state free-standing psychiatric hospitals that enter into an agreement with a state or local governmental entity for the purpose of providing healthcare services to low income and needy patients (*Louisiana Register*, Volume 37, Number 12). This Emergency Rule is being promulgated to continue the provisions of the January 1, 2012 Emergency Rule. This action is being taken to secure new federal funding and to promote the public health and welfare of Medicaid recipients by ensuring sufficient provider participation in the Hospital Services Program.

Effective May 1, 2012, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for inpatient hospital services rendered by non-rural, non-state free-standing psychiatric hospitals.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part V. Hospital Services
Subpart 1. Inpatient Hospitals
Chapter 9. Non-Rural, Non-State Hospitals
Subchapter B. Reimbursement Methodology
§959. Inpatient Psychiatric Hospital Services

A. - J. …

K. Low Income and Needy Care Collaboration. Effective for dates of service on or after January 1, 2012, quarterly supplemental payments shall be issued to qualifying non-rural, non-state free-standing psychiatric hospitals for inpatient services rendered during the quarter. Maximum aggregate payments to all qualifying hospitals in this group shall not exceed the available upper payment limit per state fiscal year.

1. Qualifying Criteria. In order to qualify for the supplemental payment, the non-state free-standing psychiatric hospital must be affiliated with a state or local governmental entity through a Low Income and Needy Care Collaboration Agreement.

a. A non-state free-standing psychiatric hospital is defined as a free-standing psychiatric hospital which is owned or operated by a private entity.

b. A Low Income and Needy Care Collaboration Agreement is defined as an agreement between a hospital and a state or local governmental entity to collaborate for the purposes of providing healthcare services to low income and needy patients.

2. Each qualifying hospital shall receive quarterly supplemental payments for the inpatient services rendered

during the quarter. Quarterly payment distribution shall be limited to one-fourth of the lesser of:

a. the difference between each qualifying hospital's inpatient Medicaid billed charges and Medicaid payments the hospital receives for covered inpatient psychiatric services provided to Medicaid recipients. Medicaid billed charges and payments will be based on a 12 consecutive month period for claims data selected by the department; or

b. for hospitals participating in the Medicaid Disproportionate Share Hospital (DSH) Program, the difference between the hospital's specific DSH limit and the hospital's DSH payments for the applicable payment period.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:876 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1895 (September 2009), amended LR 36:1554 (July 2010), LR 36:2562 (November, 2010), LR 37:2162 (July 2011), LR 38:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Center for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

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

Bruce D. Greenstein
Secretary

1204#058

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

Inpatient Hospital Services
Non-Rural, Non-State Hospitals
Low Income and Needy Care Collaboration
(LAC 50:V.953)

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

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for inpatient hospital services to reduce the reimbursement rates and to provide for a supplemental Medicaid payment to hospitals that enter into an agreement with a state or local governmental entity for the purpose of providing healthcare services to low income and needy patients (*Louisiana Register*, Volume 36, Number 11).

The department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for inpatient hospital services to revise the participation requirements for the Low Income and Needy Care Collaboration (*Louisiana Register*, Volume 37, Number 1). This Emergency Rule is being promulgated to continue the provisions of the January 1, 2011 Emergency Rule. This action is being taken to secure new federal funding and to promote the public health and welfare of Medicaid recipients by ensuring sufficient provider participation in the Hospital Services Program.

Effective April 29, 2012, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for inpatient hospital services.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part V. Hospital Services
Subpart 1. Inpatient Hospitals
Chapter 9. Non-Rural, Non-State Hospitals
Subchapter B. Reimbursement Methodology
§953. Acute Care Hospitals

A. - N.2.b. …

3. Effective for dates of service on or after January 1, 2011, all parties that participate in supplemental payments under this Section, either as a qualifying hospital by receipt of supplemental payments or as a state or local governmental entity funding supplemental payments, must meet the following conditions during the period of their participation:

a. Each participant must comply with the prospective conditions of participation in the Louisiana Private Hospital Upper Payment Limit Supplemental Reimbursement Program.

b. A participating hospital may not make a cash or in-kind transfer to their affiliated governmental entity that has a direct or indirect relationship to Medicaid payments and would violate federal law.

c. A participating governmental entity may not condition the amount it funds the Medicaid Program on a specified or required minimum amount of low income and needy care.

d. A participating governmental entity may not assign any of its contractual or statutory obligations to an affiliated hospital.

e. A participating governmental entity may not recoup funds from an affiliated hospital that has not adequately performed under the Low Income and Needy Care Collaboration Agreement.

f. A participating hospital may not return any of the supplemental payments it receives under this Section to the governmental entity that provides the non-federal share of the supplemental payments.

g. A participating governmental entity may not receive any portion of the supplemental payments made to a participating hospital under this Section.

4. Each participant must certify that it complies with the requirements of §953.N.3 by executing the appropriate certification form designated by the department for this purpose. The completed form must be submitted to the

Department of Health and Hospitals, Bureau of Health Services Financing.

5. Each qualifying hospital must submit a copy of its Low Income and Needy Care Collaboration Agreement to the department.

6. The supplemental payments authorized in this Section shall not be considered as interim Medicaid inpatient payments in the determination of cost settlement amounts for inpatient hospital services rendered by children's specialty hospitals.

O. - Q.1….

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:876 (May 2008), amended LR 34:877 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1895 (September 2009), amended LR 36:1552 (July 2010), LR 36:2561 (November 2010), LR 38:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Center for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

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

Bruce D. Greenstein
Secretary

1204#059

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

Inpatient Hospital Services
Non-Rural, Non-State Public Hospitals
Reimbursement Methodology
(LAC 50:V.953)

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

As a result of a budgetary shortfall in state fiscal year (SFY) 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for inpatient hospital services to reduce the reimbursement rates for inpatient hospital services rendered by non-rural, non-state hospitals (*Louisiana Register,* Volume 36, Number 11). The November 20, 2010 Rule also amended the reimbursement methodology for inpatient hospital services to establish a Medicaid upper payment limit financing mechanism to provide supplemental payments to hospitals for providing healthcare services to low income and needy patients.

The department promulgated an Emergency Rule which amended the provisions governing inpatient hospital services to revise the reimbursement methodology for non-rural, non-state public hospitals (*Louisiana Register*, Volume 37, Number 5). This Emergency Rule is being promulgated to continue the provisions of the May 15, 2011 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by ensuring sufficient provider participation in the hospital services program and to ensure recipient access to services.

Effective May 12, 2012, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for inpatient hospital services rendered by non-rural, non-state public hospitals.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part V. Hospital Services
Subpart 1. Inpatient Hospital Services
Chapter 9. Non-Rural, Non-State Hospitals
Subchapter B. Reimbursement Methodology
§953. Acute Care Hospitals

A. - Q. ...

R. Effective for dates of service on or after May 15, 2011, non-rural, non-state public hospitals shall be reimbursed up to the Medicare inpatient upper payment limits as determined in accordance with 42 CFR §447.272.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:876 (May 2008), amended LR 34:877 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1895 (September 2009), amended LR 36:1552(July 2010), LR 36:2561 (November, 2010), LR 38:

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

Bruce D. Greenstein
Secretary

1204#060

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

Inpatient Hospital Services—State Hospitals
Supplemental Payments (LAC 50:V.551)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:V.551 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule in June of 1983 that established the reimbursement methodology for inpatient services provided in acute care hospitals (*Louisiana Register*, Volume 9, Number 6). Inpatient hospital services were reimbursed in accordance with the Medicare reimbursement principles utilizing a target rate set based on the cost per discharge for each hospital, except that the base year to be used in determining the target rate was the fiscal year ending on September 29, 1982. In October 1984, the department established separate per diem limitations for neonatal and pediatric intensive care and burn units using the same base period as the target rate per discharge calculation *(Louisiana Register,* Volume 10, Number 10*)*. In October 1992, the department promulgated a Rule which provided that inpatient hospital services to children under one year of age shall be reimbursed as pass-through costs and shall not be subject to per discharge or per diem limits applied to other inpatient hospital services (*Louisiana Register,* Volume 18, Number 10*)*. The department subsequently amended the reimbursement methodology for inpatient hospital services to establish a prospective payment methodology for non-state hospitals *(Louisiana Register,* Volume 20, Number 6*)*. The per discharge and per diem limitations in state acute care hospitals were rebased by a Rule promulgated in December of 2003 *(Louisiana Register,* Volume 29, Number 12*)*. The Bureau subsequently amended the reimbursement methodology for inpatient services provided in state acute hospitals (*Louisiana Register,* Volume 32, Number 2).

The department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for inpatient hospital services to provide a supplemental Medicaid payment to state-owned acute care hospitals that meet the qualifying criteria, and to adjust the reimbursement paid to non-qualifying state-owned acute care hospitals (*Louisiana Register*, Volume 36, Number 11). The department amended the provisions of the October 16, 2010 Emergency Rule in order to clarify the provisions governing the reimbursement methodology for those state-owned acute care hospitals that do not meet the qualifying criteria for the supplemental payment (*Louisiana Register*, Volume 37, Number 2*)*. For the purpose of clarity, the January 20, 2011 Emergency Rule also incorporated the provisions of the February 20, 2006 Rule in a codified format for inclusion in the *Louisiana Administrative Code*. This Emergency Rule is being promulgated to continue the provisions of the January 20, 2011 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by ensuring sufficient provider participation and recipient access to services.

Effective May 18, 2012, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for inpatient hospital services rendered by state-owned acute care hospitals.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part V. Hospital Services
Subpart 1. Inpatient Hospital Services
Chapter 5. State Hospitals
Subchapter B. Reimbursement Methodology
§551. Acute Care Hospitals

A. Inpatient hospital services rendered by state-owned acute care hospitals shall be reimbursed at allowable costs and shall not be subject to per discharge or per diem limits.

B. Effective for dates of service on or after October 16, 2010, a quarterly supplemental payment up to the Medicare upper payment limits will be issued to qualifying state-owned hospitals for inpatient acute care services rendered.

1. - 2. Repealed.

C. Qualifying Criteria for Supplemental Payment. The state-owned acute care hospitals must be located in DHH Administrative Region 8 (Monroe).

D. Effective for dates of service on or after October 16, 2010, Medicaid rates paid to state-owned acute care hospitals that do not meet the qualifying criteria for the supplemental payment shall be adjusted to 60 percent of allowable Medicaid costs.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

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

Bruce D. Greenstein
Secretary

1204#061

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

Pharmacy Benefits Management Program
Medication Administration
Influenza Vaccinations
(LAC 50:XXIX.123, 991 and 993)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XXIX.123 and §991 and adopts §993 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the Pharmacy Benefits Management Program to allow payment for the administration of H1N1 vaccine by

qualified Medicaid enrolled pharmacists (*Louisiana Register*, Volume 36, Number 8). The department promulgated an Emergency Rule which amended the provisions governing the Pharmacy Benefits Management Program to allow payment for the administration of the influenza vaccine for all Medicaid recipients, and to provide reimbursement for the cost of the influenza vaccine for Medicaid recipients 19 years of age and older (*Louisiana Register*, Volume 36, Number 12). This Emergency Rule is being promulgated to continue the provisions of the January 1, 2011 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by facilitating access to the influenza vaccine.

Effective April 29, 2012, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the Pharmacy Benefits Management Program to allow reimbursement for the influenza vaccine and administration of the vaccine.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXIX. Pharmacy

Chapter 1. General Provisions

§123. Medication Administration

A. Influenza Vaccine Administration. The department shall provide coverage for administration of the influenza vaccine by a qualified pharmacist when:

1. the pharmacist has been credentialed by the Louisiana Board of Pharmacy to administer medications; and

2. the pharmacist is Medicaid enrolled.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1783 (August 2010), amended LR 38:

Chapter 9. Methods of Payment

Subchapter H. Vaccines

§991. Vaccine Administration Fees

A. ...

B. Effective for dates of service on or after January 1, 2011, the reimbursement for administration of the influenza vaccine for all recipients shall be reimbursed at $15.22 for subcutaneous or intramuscular injection, $10.90 for nasal/oral administration or billed charges, whichever is the lesser amount. This fee includes counseling, when performed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1783 (August 2010), amended LR 38:

§993. Vaccine Reimbursement

A. Effective for dates of service on or after January 1, 2011, the influenza vaccine for recipients aged 19 and over shall be reimbursed at 90 percent of the 2009 Louisiana Medicare Average Sales Price (ASP) allowable or billed charges, whichever is the lesser amount.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

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

Bruce D. Greenstein
Secretary

1204#062

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

Professional Services Program
Fluoride Varnish Applications
(LAC 50:IX.901, 903, 905, and 15105)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:IX.Chapter 9 and §15105 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing the Professional Services Program in order to establish Medicaid reimbursement for fluoride varnish application services rendered by qualified providers in a physician office setting (*Louisiana Register*, Volume 37, Number 11). The department anticipates that coverage of this service will reduce and/or prevent future oral health problems that could have a negative effect on the overall health of children and may reduce the Medicaid cost associated with the treatment of such oral health conditions.

The department promulgated an Emergency Rule which amended the December 1, 2011 Emergency Rule to clarify the general provisions and scope of services governing fluoride varnish applications (*Louisiana Register*, Volume 38, Number 1). This Emergency Rule is being promulgated to continue the provisions of the January 20, 2012 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients.

Effective May 20, 2012, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the Professional Services Program.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part IX. Professional Services Program
Subpart 1. General Provisions

Chapter 9. Fluoride Varnish Application Services

§901. General Provisions

A. Effective for dates of service on or after December 1, 2011, the department shall provide Medicaid coverage of fluoride varnish application services to recipients from six months through five years of age.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

§903. Scope of Services

A. Fluoride varnish application services performed in a physician office setting shall be reimbursed by the Medicaid Program when rendered by the appropriate professional services providers.

B. Fluoride varnish applications may be covered once every six months per Medicaid recipient.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

§905. Provider Participation

A. The entity seeking reimbursement for fluoride varnish application services must be an enrolled Medicaid provider in the Professional Services Program. The following Medicaid enrolled providers may receive reimbursement for fluoride varnish applications:

1. physicians;
2. nurse practitioners; and
3. physician assistants.

B. The following providers who have been deemed as competent to perform the service by the certified physician may perform fluoride varnish application services in a physician office setting:

1. the appropriate dental providers;
2. physicians;
3. physician assistants;
4. nurse practitioners;
5. registered nurses; or
6. licensed practical nurses.

C. Professional service providers shall review the Smiles for Life training module for fluoride varnish and successfully pass the post assessment.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

Subpart 15. Reimbursement

Chapter 151. Reimbursement Methodology

Subchapter A. General Provisions

§15105. Fluoride Varnish Application Services

A. Effective for dates of service on or after December 1, 2011, the Medicaid Program shall provide reimbursement for fluoride varnish application services rendered by qualified health care professionals in a physician office setting.

B. Reimbursement for fluoride varnish application services shall be a flat fee based on the appropriate HCPCS code.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

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

Bruce D. Greenstein
Secretary

1204#063

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

Rural Health Clinics
Fluoride Varnish Applications
(LAC 50:XI.16301 and 16701)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XI.16301 and §16701 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing rural health clinics (RHCs) to provide Medicaid reimbursement for diabetes self-management training services and to reorganize the existing provisions governing provider participation and services in a more clear and concise manner in the *Louisiana Administrative Code* (*Louisiana Register*, Volume 37, Number 9). The department promulgated an Emergency Rule which amended the September 20, 2011 Rule to adopt provisions for the coverage of fluoride varnish application services rendered to Medicaid recipients (*Louisiana Register*, Volume 37, Number 11). The department promulgated an Emergency Rule which amended the December 1, 2011 Emergency Rule to clarify the provisions governing the scope of services for fluoride varnish applications (*Louisiana Register*, Volume 38, Number 1). This Emergency Rule is being promulgated to continue the provisions of the January 20, 2012 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients.

Effective May 20, 2012, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing rural health clinics.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XI. Clinic Services

Subpart 15. Rural Health Clinics

Chapter 163. Services

§16301. Scope of Services

A. - B.1. ...

C. Effective December 1, 2011, the department shall provide coverage for fluoride varnish applications performed in the RHC. This service shall be limited to recipients from six months through five years of age. Fluoride varnish applications may be covered once every six months per Medicaid recipient.

1. Fluoride varnish applications shall be reimbursed when performed in the RHC by:
   a. the appropriate dental providers;
   b. physicians;
   c. physician assistants;
   d. nurse practitioners;

e. registered nurses; or

f. licensed practical nurses.

2. All participating staff shall review the *Smiles for Life* training module for fluoride varnish and successfully pass the post assessment. All staff involved in the varnish application must be deemed as competent to perform the service by the RHC.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1904 (October 2006), repromulgated LR 32:2267 (December 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:2631 (September 2011), LR 38:

Chapter 167. Reimbursement Methodology

§16701. Prospective Payment System

A. - B.3.a. …

4. Effective for dates of service on or after December 1, 2011, the Medicaid Program shall include coverage for fluoride varnish applications in the RHC encounter rate.

a. Fluoride varnish applications shall only be reimbursed to the RHC when performed on the same date of service as an office visit or preventative screening. Separate encounters for fluoride varnish services are not permitted and the application of fluoride varnish does not constitute an encounter visit.

C. - D. …

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1905 (October 2006), repromulgated LR 32:2267 (December 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:2632 (September 2011), LR 38:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

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

Bruce D. Greenstein
Secretary

1204#064

DECLARATION OF EMERGENCY

Department of Public Safety and Corrections
Corrections Services

Performance Grid and Administrative Sanctions
(LAC 22:I.409)

The Department of Public Safety and Corrections, Corrections Services is exercising the emergency provision of the Administrative Procedure Act [R.S. 49:953(B)] to promulgate the rules of Performance Grids and Administrative Sanctions in accordance with R.S. 15:574.7(B) and C Cr P Art 899.1.

This Emergency Rule is necessary to implement the provisions of Act 104 of the 2011 Regular Session to address the behavior of offenders through the use of a performance grid and administrative sanctions. This Rule allows probation and parole officers the ability to utilize administrative sanctions when authorized by the court or the board of parole. Implementation of these sanctions could possibly result in a cost savings to the state if the offender is not revoked and remains in the department's legal custody but not physical custody. Approximately 65-70 percent of the offenders under supervision could have the potential to be affected and subject to the administrative sanctions.

A delay in promulgating rules would have an adverse impact on the eligible offenders. The department has for the foregoing reasons, determined that the adoption of an Emergency Rule is necessary for implementation of department regulation No. E-02-008.

This Declaration of Emergency is effective March 23, 2012 and shall remain in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final Rule, whichever occurs first.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part I. Corrections

Chapter 4. Division of Probation and Parole

§409. Performance Grid and Administrative Sanctions

A. Purpose—to establish the secretary's policy for addressing the behavior of an offender through the use of a performance grid and administrative sanctions. The performance grid and administrative sanctions ensure consistent and timely actions which shall be imposed in response to violations enumerated on the grid. This works to achieve public safety by holding offenders accountable for their behavior and reinforcing positive behavior.

B. Applicability—deputy secretary, director of probation and parole, regional administrators, district administrators and all probation and parole officers. The director of probation and parole is responsible for ensuring that appropriate unit written policy and procedures are in place to comply with the provisions of this regulation.

C. Policy. It is the secretary's policy to address violations in a timely, consistent and reasonable manner by use of the performance grid, which may include administrative sanctions. Absent significant risk to public safety, these actions and/or administrative sanctions would be graduated and proportional with the level of violations. The needs of the offender shall also be considered to assist in the successful completion of their sentence. The grid is a tool to guide probation and parole officers in the application of administrative sanctions. It is also the secretary's policy to recognize and reward offenders for achieving progress made towards goals formulated in the supervision plan.

D. Definitions

Actions—added conditions or requirements placed on the offenderby the probation and parole officer, the court or the board of parole in an effort to prevent any further violations by an offender.

Administrative Sanctions—imposed by the probation and parole officer to address technical violations in

accordance with Act No. 104 of the 2011 Regular Session to include, but not be limited to: jail; non-custodial treatment; community service work; house arrest; electronic monitoring, restitution centers, transitional work programs, day reporting centers and other local sanctions not already imposed as special conditions of supervision.

Performance Grid—a four level instrument used to register any violation enumerated on the performance grid by an offender and the actions taken by a probation and parole officer in response to those violations. Each level is graduated to address the seriousness of the violations that occur.

Violations—any behavior, action or inaction, which is contrary to the conditions of probation or parole supervision which may or may not be enumerated on the performance grid.

NOTE: The following violations are specific to violations in which probation and parole officers may use the administrative sanctions.

Parole Technical Violations—all violations of the conditions of parole, except those resulting in a new arrest, charge, conviction of a felony or an intentional misdemeanor directly affecting the person or being in possession of a firearm or other prohibited weapon.

Probation Technical Violations—all violations of probation, except those resulting in an arrest for a subsequent criminal act.

E. General Application of Performance Grid in Response to Violations

1. Timely and appropriate actions shall be taken in accordance with the procedures of this regulation when a probation and parole officer becomes aware of an offender's violation(s).

2. The officer shall utilize the performance grid for enumerated violations specific to the offender and the violation. The absence of any other technical violation from the performance grid does not prohibit the probation and parole officer from addressing these violations in an appropriate manner.

3. The performance grid shall not be utilized to address violations of not guilty by reason of insanity and interstate compact cases.

4. When using the performance grid, the probation and parole officer shall locate the performance grid specific to the offender, select the enumerated violation(s) and choose the appropriate coinciding action(s) and/or administrative sanctions. When imposing sanction(s) for violations, all appropriate actions shall be selected to fully address violations, especially when selecting jail as an administrative sanction (i.e., substance abuse treatment after jail sanction is imposed).

5. Although a wide range of actions and administrative sanctions are available for response to certain violations, probation and parole officers may determine that a departure from the recommended actions may be a more appropriate response to a violation(s). The reasons for the departure shall be explained in the narratives.

6. Actions taken for a positive drug screen shall also include mandatory retesting within 45 days.

7. When the offender completes the last action directed, the offender returns to a compliant status. Any new violation that occurs after the offender has returned to compliant status for six months will be addressed as a level 1 violation.

F. Administrative Sanctions

1. When using the performance grid, probation and parole officers may opt to utilize administrative sanctions when authorized by the court or board of parole. These administrative sanctions are located in the actions column of the performance grid. The violation(s) and subsequent sanction(s) shall be noted on the performance grid when completing case narratives as described in Paragraph E.5. of this Section. The performance grid establishes the level and type of administrative sanctions that may be imposed by probation and parole officers and the level and type of violations that warrant a recommendation that the offender be returned to the court or the board of parole.

2. When imposing administrative sanctions, the following factors shall be taken into consideration:

a. severity of the violation;

b. prior violation history;

c. severity of the underlying criminal conviction;

d. any special circumstances, characteristics or resources of the offender;

e. protection of the community;

f. deterrence;

g. availability of local sanctions, including, but not limited to: jail; non-custodial treatment; community service work; house arrest; electronic monitoring; restitution centers; transitional work programs; day reporting centers and other local sanctions not already imposed as special conditions of supervision.

3. When imposing administrative sanctions (including jail sanctions) that are not already conditions of supervision (i.e., electronic monitoring, substance abuse treatment, etc.) the probation and parole officer shall complete the notification of administrative sanctions and shall obtain supervisor approval prior to imposing the sanctions.

4. For the offender to accept the administrative sanction, the offender must be given notice of the violation(s), must waive his right to a hearing and counsel, must consent to the administrative sanction being imposed and must admit the violation(s). All offenders who are offered administrative sanction(s) shall receive the following process.

a. The notification of administrative sanctions form shall be printed, read and thoroughly explained to the offender. The offender shall then be given the option of accepting or refusing the imposed administrative sanction(s).

b. When the offender agrees to the administrative sanction(s), the offender, supervising probation and parole officer and supervisor shall sign and date the notification of administrative sanctions form. The offender shall be provided a copy of the completed notification of administrative sanctions form.

c. If jail is being imposed as an administrative sanction, CAJUN and case management shall be updated by appropriate district office staff (support employee or probation and parole officer) to indicate correct location and transfer dates. The local jail facility shall also be provided a completed notification of administrative sanctions form for their records.

d. When a jail sanction is chosen, the probation and parole officer is limited to the number of jail days in the

appropriate level, regardless of the number of violations that have occurred. The number of total jail days an offender serves cannot exceed 60 days in a twelve month period. This twelve month period begins upon the imposition of the first jail sanction.

e. The court, board of parole, district attorney and defense counsel of record shall be provided a copy of the notification of administrative sanctions form.

5. If the offender refuses the administrative sanction(s), the offender shall be given the opportunity to explain in writing on the notification of administrative sanctions form why the administrative sanction is being refused. The refusal shall be witnessed and dated. This information shall be provided to the court or board of parole for further action.

6. Monthly reports shall be submitted electronically no later than the tenth day of the month following the reporting period utilizing the C-05-001 reporting database and appropriate C-05-001 form.

G. Rewards and Recognition

1. The performance grid shall also recognize and reward offenders for positive behavior changes, compliance with the conditions of supervision and progress made towards achievement of goals. Timely and appropriate action shall be taken in response to positive behavior as enumerated in the performance grid.

2. Recognition shall also be achieved by reducing the level of supervision and early termination, suspended status and self reporting as established in current policy and procedure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 38:

James M. Le Blanc
Secretary

1204#010

DECLARATION OF EMERGENCY

Department of Public Safety and Corrections
State Uniform Construction Code Council

Uniform Construction Code—Employment—Building Code Enforcement Officer (LAC 55:VI.903)

In accordance with the provisions of R.S. 40:1730.22, and R.S. 40:1730.35, relative to the authority of the Louisiana State Uniform Construction Code Council (LSUCCC) to promulgate and enforce rules, the LSUCCC finds that an imminent peril to the public welfare requires adoption of a Rule upon shorter notice than that provided in R.S. 49:953(A) as the provisional certificates of registration issued pursuant to R.S. 40:1730.35(D) and LAC 55:VI.903 will expire effective January 1, 2012. The expiration of these provisional certificates of registration will result in the loss of over 200 building code enforcement officers statewide. This loss of building code enforcement officers will result in a significant increase in the time it takes to have plans reviewed and construction projects inspected for both commercial and residential construction. The LSUCCC is proposing a 90 day extension of these provisional certificates of registration to allow the affected building code enforcement officers additional time to comply with the certification requirements contained in LAC 55:VI.703. In order to avoid costly delays in both residential and commercial construction, it is necessary to adopt these emergency rules to have this exception in place until the affected building code enforcement officers have time to comply with §703. 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 until April 30, 2012. This Rule is effective April 1, 2012. The Louisiana State Uniform Construction Code is amended as follows.

Title 55
PUBLIC SAFETY
Part VI. Uniform Construction Code
Chapter 3. Adoption of the Louisiana State Uniform Construction Code
§903. Employment prior to January 1, 2007

A. …

B. The building code enforcement officers designated in Paragraph A above shall have until April 30, 2012, to satisfy the certification requirements as set forth in §703 of this Part. Officials availing themselves of this provision shall obtain the required continuing education units and have attempted at least one International Code Council certification exam by January 1, 2010. Failure to do either shall result in the revocation of that official's provisional certificate of registration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D), and R.S. 40:1730.35(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:293 (February 2007), amended LR 35:2821 (December 2009), repromulgated LR 36:329 (February 2010), LR 38:

Jill P. Boudreaux
Undersecretary

1204#040

DECLARATION OF EMERGENCY

Department of Public Safety and Corrections
State Uniform Construction Code Council

State Uniform Construction Code—Design Criteria—Structural Design for Earthquake Loads (LAC 55:VI.301)

In accordance with the provisions of R.S. 40:1730.26, and R.S. 40:1730.28, relative to the authority of the Louisiana State Uniform Construction Code Council (LSUCCC) to promulgate and enforce rules, the LSUCCC finds that an imminent peril to the public health, safety, or welfare requires adoption of a Rule upon shorter notice than that provided in R.S. 49:953(A). Notice is hereby given that the Louisiana State Uniform Construction Code Council (LSUCCC), intends to adopt an Emergency Rule amending §1613 of the International Building Code (IBC) of the State Uniform Construction Code. §1613 is the design criteria for structural design for earthquake loads. The American Society of Civil Engineers has produced a document titled ASCE 7-

0 which contains new more accurate design data which will significantly change the design for earthquake loads in Louisiana. This new information and design criteria will provide significant savings to the public and provide the latest testing in the construction of structures in Louisiana. Due to long design timeframes for major projects, the Louisiana State Uniform Code Council intends to adopt these emergency changes to prevent delays in design and to help provide economic development. The current provision of the IBC, §1613, addressing seismic requirements, impacts the cost of construction. The current requirements are possibly delaying the design, permitting, and completion of health facilities because they are particularly impacted by the most severe risk category of the seismic requirements. Adoption of the Emergency Rule can allow more reasonable seismic provisions to be applied to these facilities which ensure the health, safety and welfare of the public. Effective March 26, 2012, the Louisiana State Uniform Construction Code is amended as follows.

Title 55
PUBLIC SAFETY
Part VI. Uniform Construction Code
Chapter 3. Adoption of the Louisiana State Uniform Construction Code
§301. Louisiana State Uniform Construction Code

A. - A.1.a.iii. …

iv. Amend chapter 16, section 1613.1 Scope. Every structure, and portion thereof, including nonstructural components that are permanently attached to structures and their supports and attachments, shall be designed and constructed to resist the effects of earthquake motions in accordance with ASCE7, excluding chapter 14 and Appendix 11A. The seismic design category for a structure is permitted to be determined in accordance with section 1613 or ASCE 7-10. Figure 1613.5(1) shall be replaced with ASCE 7-10 Figure 22-1. Figure 1613.5(2) shall be replaced with ASCE 7-10 Figure 22-2.

v. Amend chapter 23, section 2308.2, exceptions 4. Wind speeds shall not exceed 110 miles per hour (mph) (48.4m/s) (3-second gust) for buildings in exposure category B.

2. - 7. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D) and 40:1730.26(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:291 (February 2007), amended LR 34:93 (January 2008), LR 34: 883 (May 2008), LR 34:2205 (October 2008), LR 35:1904 (September 2009), LR 36:2574 (November 2010), effective January 1, 2011, LR 37:601 (February 2011), LR 37:913 (March 2011), repromulgated LR 37:2187 (July 2011), repromulgated LR 37:2726 (September 2011), LR 37:3065 (October 2011), LR 38:

Jill P. Boudreaux
Undersecretary

1204#016

DECLARATION OF EMERGENCY

Department of Revenue
Policy Services Division

Corporation Income and Franchise Tax Filing Extensions
(LAC 61:III.2503)

The Louisiana Department of Revenue exercised the emergency provision in accordance with R.S. 49:953(B) of the Administrative Procedure Act and its authority under R.S. 47:1511, 1514, 103(D), to adopt a Rule that requires corporate taxpayers who are unable to file the Louisiana corporation income and franchise tax return by the due date to request an extension on the form prescribed by the secretary of the Department of Revenue.

It was previously the practice of the Louisiana Department of Revenue (LDR) to accept copies of the federal extension submitted with the Louisiana return as an acceptable method to request an extension of time to file the Louisiana corporation income and franchise tax return. The evolution of technology has allowed the IRS to grant federal extensions electronically, with no paper extension issued to the taxpayer. The increased use of "paperless" federal extensions has made it impossible for taxpayers to attach a copy of the federal extension to their state returns. At the same time, increased use of technology by LDR has made obtaining a state extension via the Internet possible. Beginning with the corporation income and franchise tax return due on January 1, 2012, a taxpayer who needs additional time to file their Louisiana corporation income and franchise tax return must request an extension to file the return on the form prescribed by the secretary of the Department of Revenue. The department will no longer accept a federal extension to file as an extension to file the Louisiana corporation income and franchise tax return.

The Department of Revenue has determined that this emergency action is necessary to prevent undue delay in notifying taxpayers and tax preparers of this new requirement and to prevent taxpayers from incurring late filing penalties and other related penalties as a result of failing to timely file for a state extension. This Emergency Rule becomes effective on March 20, 2012 and shall remain in effect for a period of 180 days or until this Rule takes effect through the normal promulgation process, whichever comes first.

Title 61
REVENUE AND TAXATION
Part III. Administrative Provisions and Miscellaneous
Chapter 25. Returns
§2503. Corporation Income and Franchise Tax Filing Extensions

A. The secretary may grant a reasonable extension of time to file a state corporation income and franchise tax return, not to exceed seven months, from the date the return is due.

1. To obtain a filing extension, the taxpayer must make the request on or before the tax return's due date.

2. A taxpayer may request a state filing extension by submitting:

a. a Louisiana application for extension to file corporation income and franchise tax, Form CIFT-620Ext; or

b. an electronic application.

B. Filing Extension Does Not Extend Time to Pay Tax

1. A filing extension granted by the secretary only allows for an extension of time to file the tax return. The extension does not allow an extension of time to pay the tax due.

2. To avoid interest and penalty assessments, estimated income taxes due should be paid on or before the original due date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511, 1514, and 287.614(D).

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 36:552 (March 2010), amended LR 38:

Cynthia Bridges
Secretary

1204#009

DECLARATION OF EMERGENCY

Department of Revenue
Policy Services Division

Individual Income Tax Filing Extensions
(LAC 61:III.2501)

The Louisiana Department of Revenue exercised the emergency provision in accordance with R.S. 49:953(B) of the Administrative Procedure Act and its authority under R.S. 47:1511, 1514, 103(D), to adopt a rule that requires individual taxpayers who are unable to file the state individual income tax return by the due date to request an extension on the form prescribed by the secretary of the Department of Revenue.

It was previously the practice of the Louisiana Department of Revenue (LDR) to accept copies of the federal extension submitted with the Louisiana return as an acceptable method to request an extension of time to file the Louisiana individual income tax return. The evolution of technology has allowed the IRS to grant federal extensions electronically, with no paper extension issued to the taxpayer. The increased use of "paperless" federal extensions has made it impossible for taxpayers to attach a copy of the federal extension to their state returns. At the same time, increased use of technology by LDR has made obtaining a state extension via the internet possible. Beginning with the 2011 income tax return due in 2012, individual taxpayers who need additional time to file their Louisiana individual income tax returns will need to request an extension to file the return on the form prescribed by the secretary of the Department of Revenue. The department will no longer accept a federal extension to file as an extension to file the state individual income tax return.

The Department of Revenue has determined that this emergency action is necessary to prevent undue delay in notifying taxpayers and tax preparers of this new requirement and to prevent taxpayers from incurring late filing penalties and other related penalties as a result of failing to timely file for a state extension. This Emergency Rule becomes effective on March 20, 2012 and shall remain in effect for a period of 180 days or until this Rule takes effect through the normal promulgation process, whichever comes first.

Title 61
REVENUE AND TAXATION
Part III. Administrative Provisions and Miscellaneous
Chapter 25. Returns
§2501. Individual Income Tax Filing Extensions

A. The secretary may grant a reasonable extension of time to file a state individual income tax return, not to exceed six months.

1. To obtain a filing extension, the taxpayer must make the request on or before the tax return's due date.

2. A taxpayer may request a state filing extension by submitting:

a. a paper copy of an Application for extension of time to file Louisiana individual income tax; or

b. an electronic application.

B. Filing Extension Does Not Extend Time to Pay Tax

1. A filing extension granted by the secretary only allows for an extension of time to file the tax return. The extension does not allow an extension of time to pay the tax due.

2. To avoid interest and penalty assessments, estimated taxes due should be paid on or before the original due date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511, 1514, and 103(D).

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 35:1137 (June 2009), amended LR 36:73 (January 2010), LR 38:

Cynthia Bridges
Secretary

1204#008

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

2012 Gag Grouper Bag Season

The reef fish fishery in the Gulf of Mexico is cooperatively managed by the Louisiana Department of Wildlife and Fisheries (LDWF), the Wildlife and Fisheries Commission (LWFC) and the National Marine Fisheries Service (NMFS) with advice from the Gulf of Mexico Fishery Management Council (Gulf Council). Regulations promulgated by NMFS are applicable in waters of the exclusive economic zone (EEZ) of the U.S., which in Louisiana is generally three miles offshore.

Rules were established by NMFS on April 16, 2009 to modify recreational creel limits for grouper species. Further rules were promulgated by NMFS on November 2, 2011 and March 12, 2012 to establish increased bag limits for red grouper and to set a recreational season for gag grouper.

These rules included modifications to the recreational season and bag limits. NMFS typically requests consistent regulations in order to enhance the effectiveness and enforceability of regulations for EEZ waters.

In order to enact regulations in a timely manner so as to have compatible regulations in place in Louisiana water to coincide with the regulation set forth by NMFS, it is necessary that emergency rules be enacted. Adoption of compatible regulations for Louisiana state waters where feasible enhances effectiveness and enforceability of the regulations already in place for reef fishes harvested in the EEZ off of Louisiana.

In accordance with the emergency provisions of R.S. 49:953 which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to employ emergency procedures to promulgate seasonal rules to set finfish seasons, R.S. 56:6(25)(a) and R.S. 56:326.3 which provide that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, the Wildlife and Fisheries Commission hereby declares:

Effective immediately, the recreational bag limit for shallow-water grouper (red hind, rock hind, speckled hind, black grouper, red grouper, snowy grouper, yellowedge grouper, yellowfin grouper, yellowmouth grouper, warsaw grouper, gag grouper and scamp) shall be four fish per person per day (in aggregate) with not more than one speckled hind and one warsaw grouper per vessel and with not more than four red grouper and two gag per person included in the bag limit during the open season during 2012.

The commission further declares that the recreational season for the harvest of gag grouper shall be open from June 1 through October 31, 2012.

The commission also hereby grants authority to the secretary of the Department of Wildlife and Fisheries to modify the recreational season currently established in Louisiana state waters if he is informed by NMFS that the season dates for the recreational harvest of gag grouper in the federal waters of the Gulf of Mexico as set out herein have been modified, and that NMFS requests that the season be modified in Louisiana state waters, or as needed to effectively implement the provisions herein upon notification to the chairman of the Wildlife and Fisheries Commission. Such authority shall extend through January 31, 2013.

Ann L. Taylor
Chairman

1204#072

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

2012 Greater Amberjack Season Closure

The commercial season for the harvest of greater amberjack in Louisiana state waters will remain closed effective 12:01 a.m. on June 1, 2012. The commercial season for greater amberjack is currently closed due to a seasonal closure from March 1 through May 31. The secretary has been informed that the commercial season for greater amberjack in the federal waters of the Gulf of Mexico off the coast of Louisiana will remain closed for the remainder of 2012 following the seasonal commercial closure until 12:01 a.m. January 1, 2013.

In accordance with the provisions of R.S. 49:953, which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use seasonal rules to set finfish seasons, R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, and the authority given to the secretary of the department by the commission in its resolution of January 5, 2012 to modify opening and closing dates of 2012-2013 commercial reef fish seasons in Louisiana state waters when he is informed by the regional director of NOAA Fisheries that the seasons have been closed in adjacent federal waters, and that NOAA Fisheries requests that the season be modified in Louisiana state waters, the secretary hereby declares:

The commercial fisheries for greater amberjack in Louisiana waters will close at 12:01 a.m. on June 1, 2012, and remain closed until 12:01 a.m., January 1, 2013. Effective with this closure, no person shall commercially harvest, possess, purchase, barter, trade, sell or attempt to purchase, barter, trade or sell greater amberjack whether within or without Louisiana waters. Nothing shall prohibit the possession or sale of fish legally taken prior to the closure providing that all commercial dealers possessing greater amberjack taken legally prior to the closure shall maintain appropriate records in accordance with R.S. 56:306.5 and R.S. 56:306.6.

The secretary has been notified by NOAA Fisheries that the commercial greater amberjack season in federal waters of the Gulf of Mexico will remain closed in Federal waters following the seasonal closure of March 1 through May 31, until 12:01 a.m. January 1, 2013. Having compatible season regulations in state waters is necessary to provide effective rules and efficient enforcement for the fishery, to prevent overfishing of the species in the long term.

Robert Barham
Secretary

1204#037

Rules

RULE

Department of Agriculture and Forestry
Board of Animal Health

Health Certificates and Health Requirements—Chronic Wasting Disease (LAC 7:XXI.1503 and 1515)

In accordance with the Administrative Procedures Act, R.S. 49:950 et seq., and with the enabling statutes, R.S. 3:2093, 3:2095, and 3:2097, the Louisiana Board of Animal Health has amended regulations to impose additional health requirements for the transport or movement of deer through or into this state.

Chronic Wasting Disease (CWD) infects deer and elk herds in several states and in the Canadian province of Saskatchewan. The disease affects animals of the family Cervidae, such as elk, black-tailed deer, mule deer, red deer and white-tailed deer. CWD is a neurodegenerative disease that is related to other spongiform encephalopathies such as Bovine Spongiform Encephalopathy (Mad Cow Disease) in cattle and Scrapie in sheep. There is no known cure for CWD, which appears to have a one hundred percent mortality rate. The means by which CWD is transmitted is not known at this time, although animal to animal contact appears to be a transmittal method. The disease is very resistant and may be able to live outside an animal for an extended period of time. Although CWD appears to be limited to deer and elk, and is not known to be capable of being transmitted to cattle or other livestock, the disease is so poorly understood that it may pose a risk to other livestock.

In 2001, the United States Department of Agriculture declared a state of emergency in regard to CWD. Other states, such as Texas and Florida, have prohibited the importation of deer and elk. The cost of monitoring and controlling CWD has reached or exceeded $1,000,000 in some states.

This state has a substantial alternative livestock industry that raises imported exotic deer and antelope, elk, and farm-raised white-tailed deer. The alternative livestock industry in Louisiana is growing and is becoming an important part of the Louisiana agricultural industry. The alternative livestock industry generates an economic impact in Louisiana of over $30,000,000 annually.

For these reasons CWD presents a peril to the public health, safety and welfare, as well as a peril to Louisiana's livestock and wild deer. As a result of this peril, the Louisiana Board of Animal Health, by adoption of these regulations, is exercising its plenary power to deal with contagious and infectious diseases of animals to prevent the introduction of CWD into Louisiana.

Title 7
AGRICULTURE AND ANIMALS
Part XXI. Diseases of Animals
Chapter 15. Alternative Livestock—Imported Exotic Deer and Imported Exotic Antelope, Elk and Farm-Raised White-Tailed Deer

§1503. Definitions

A. For purposes of these rules and regulations the following words and phrases shall have the meaning given herein.

* * *

Chronic Wasting Disease (CWD)—a contagious neurological disease affecting deer, elk and moose which causes a characteristic spongy degeneration of the brain of infected animals resulting in emaciation, abnormal behavior, loss of bodily functions and death.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:282 (February 1998), amended LR 24:1671 (September 1998), LR 38:961 (April 2012).

§1515. Health Certificates and Health Requirements

A. - B. …

C. Elk, black-tailed deer, mule deer, red deer, white-tailed deer, and any imported exotic deer as defined in LAC 7:XXI.1503 (collectively referred to in this Section as "deer") shall not be admitted or readmitted (collectively referred to as "admitted") into this state without specific written authorization from the commissioner or his designee.

1. Deer being transported through this state in interstate commerce shall be exempt from the provisions of this Section if there are no scheduled stops for offloading the deer or if such stops would reasonably place the deer in contact with other deer or cattle.

a. If deer being transported through this state in interstate commerce must be offloaded due to a mechanical breakdown or an emergency situation then the state veterinarian shall be immediately notified of the situation.

b. No deer shall be offloaded without authorization from the state veterinarian to offload the deer.

c. The deer shall be offloaded, confined, and quarantined in strict compliance with the instructions provided by the state veterinarian and shall be kept confined, quarantined and re-loaded under the direct supervision of the state veterinarian's representative.

2. Deer within this state that are moved or transported out of this state, even temporarily, shall not be admitted back into this state without the specific written authorization of the commissioner or his designee.

D. A person must provide the state veterinarian the following documentation or information as to each animal in

order to obtain the authorization necessary for admission of the deer into this state.

1. A request stating the number and type of deer to be admitted, the origin of the deer, the destination of the deer, any stops made or anticipated to be made between the origination point and the final destination where the deer will be offloaded or held in proximity to other deer, the name and address of the requestor, the name and address of the owner of the deer and the reason for the admission of the deer.

2. A certificate of veterinary inspection issued within the preceding 30 days by an accredited veterinarian on the deer listed in the written request which includes a permit number obtained from the department's office of animal health services.

3. A statement by the owner of the deer that he will reimburse all costs incurred by the commissioner or the department for feeding, sheltering, caring, and disposing or destroying of any deer seized and quarantined by the department for violation of any conditions, quarantines, or restrictions placed on deer admitted to the state.

4. Written and signed certification, whether signed jointly or separately, by both the owner of the deer and the inspecting veterinarian of the following information:

a. the distance to the nearest confirmed case of CWD if the deer are to be admitted from any state that has reported a CWD case within the last five years;

b. whether the facility the deer are coming from is enclosed by a single fence or double fence;

c. that each deer:

i. is from a herd that has participated in a recognized CWD surveillance and monitoring program for at least 60 months;

ii. has been in the herd from which the deer is being moved for at least 60 months, or has been in the herd for its entire life if younger than 60 months of age, or was placed in the herd from a herd that had participated in a recognized CWD surveillance and monitoring program for at least 60 months prior to the removal of the deer from the second herd and placement in the first herd;

iii. comes from a herd that is not within 25 miles of a confirmed case of CWD occurring within the previous 60 months if the facility that the deer is coming from is a single fenced facility; or

iv. comes from a herd that is not within five miles of a confirmed case of CWD occurring within the previous 60 months if the facility that the deer is coming from is a double fenced facility.

5. Documentation that shows that each deer meets the health requirements set out in LAC 7:XXI.107 and 7:XXI.1515.

E. The commissioner or his designee shall have the discretion to refuse to authorize the admission of deer into this state, even if all the criteria set out in Subsection D have been met, if in his informed opinion based on advice and recommendations from accredited veterinarians on staff with the department or employed by the federal government or from reliable veterinarian research or other credible information, he believes that admission of the deer may jeopardized the health of the deer population in this state or run the risk of bring CWD into the state.

F. The commissioner or his designee may, at his discretion, impose conditions, quarantines, and restrictions on the admission of any deer into this state if he believes that such conditions, quarantines, and restrictions are necessary to protect the health of this state's deer population or to control the risk of bringing CWD into the state.

1. Deer admitted into the state subject to any condition, quarantine or restriction may be seized by the department and placed in quarantine on order of the commissioner, at the owner's expense, for any violation of any condition, quarantine or restriction.

2. The commissioner, on behalf of the board, may take any legal action necessary to obtain a court order to dispose of or destroy any such deer seized by the department.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:282 (February 1998), amended LR 24:1675 (September 1998), LR 38:961 (April 2012).

Mike Strain, DVM
Commissioner

1204#050

RULE

Department of Agriculture and Forestry
Office of the Commissioner

Railroad Crossings—Agricultural and Private Rural Residence (LAC 7:XLVII.Chapter 1)

In accordance with the Administrative Procedures Act, R.S. 49:950 et seq., and with the enabling statute, R.S. 48:390(H), the commissioner of agriculture and forestry, has adopted regulations to define private rural residence and agricultural crossings; to provide the procedure for the approval of applications to keep private rural residence and agricultural crossings open, or to reopen private crossings closed by railroad corporations; and for ordering railroad corporations to allow such crossing to remain open or to be reopened.

The Legislature enacted *Act 2008, No. 773* in the 2008 Regular Legislative Session requiring the commissioner of agriculture and forestry to order railroad corporations owning or operating a railway in this state to allow certain private rural residence or agricultural crossings to remain open. The Legislature also permits the commissioner of agriculture and forestry to order a railroad corporation to open certain private crossings closed by a railroad corporation. Lastly, Act 773 requires the Department of Agriculture and Forestry to promulgate rules and regulations for the implementation of Act 773.

Title 7
AGRICULTURE AND ANIMALS
Part XLVII. Railroad Crossings—Agricultural and Private Rural Residence
Chapter 1. Railways—Access Over Right-of-Way
§101. Definitions

Agricultural Operation—the commercial production, storage, or processing of any agronomic, floricultural,

horticultural, vitacultural, silvicultural, or aquacultural crop or product.

Agricultural Crossing—a private road, street, lane, or path by which vehicles or equipment used in an agricultural operation may traverse a railway right-of-way.

Commissioner—the Louisiana Commissioner of Agriculture and Forestry.

Department—the Louisiana Department of Agriculture and Forestry.

Person—an individual, corporation, limited liability company, or other legal entity.

Private Crossing—an agricultural crossing or a rural residence crossing.

Railroad Corporation—a business or company that owns or operates a railway in this state.

Railway—a road composed of parallel steel rails supported by ties and providing a track for locomotive drawn trains and other rolling stock.

Rural Residence Crossing—a private road, street, lane, or path by which automobiles or other self propelled vehicles or equipment may traverse a railway right-of-way to get to and from a private rural residence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:390(H).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 38:962 (April 2012).

§103. Authority of the Commissioner

A. The commissioner may order a railroad corporation to keep a private crossing open or to immediately restore and keep in good repair a private crossing closed by the railroad corporation upon written request by a person eligible to make such a request if the commissioner determines that the order is necessary to carry out the provisions of R.S. 48:390(H).

B. After receiving the written request, the commissioner may order the department to conduct an investigation.

C. The decision of the commissioner shall be based on the information submitted to him or obtained by him as a result of an investigation into the matter by the department.

D. The decision of the commissioner shall be in the exercise of the discretionary authority granted to him by R.S. 48:390(H) and shall be the final administrative decision in the matter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:390(H).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 38:963 (April 2012).

§105. Eligibility for Making a Request

A. No person may make a request for an order to keep a private crossing open or to reopen a private crossing unless the person owns, leases, or otherwise has legal use or possession of land that is split by a railway or has no other practical access to that person's private rural residence or agricultural operation.

B. A person may make the request only in his name either directly or through an authorized legal representative.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:390(H).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 38:963 (April 2012).

§107. Procedure for Requesting an Order from the Commissioner

A. The written request shall be made to the commissioner of agriculture and forestry, 5825 Florida Boulevard, Baton Rouge, LA 70806 and shall be signed by the person submitting the request. The request shall include the following information:

1. the name, physical address, mailing address, and telephone number of the person or business submitting the request;

2. the name and business structure under which the individual or business conducts an agricultural operation and the physical address, mailing address and telephone number of the agricultural operation, if different than the information provided for the person or business making the request;

3. the physical location of the rural residence or agricultural operation;

4. the relationship of the person or business to the rural residence or agricultural operation affected or to be affected by the closing of the private crossing;

5. the nature of the agricultural operations, if any, affected or to be affected by the closing of the private crossing;

6. the hardship that will be or has been created by the closing of the private crossing;

7. the name of the railroad corporation owning or operating the railway that plans to close or has closed the private crossing;

8. the date of the scheduled closing or the date the private crossing was closed;

9. the location of the next available closest public or private crossing that the person or business would be able to access;

10. any other information requested by the commissioner or his designee.

B. The person making the request shall also submit the following documentation.

1. Proof of ownership or possession, such as a tax statement, deed, lease, title opinion or judgment of possession related to the rural residence or agricultural operation.

2. A map, plat, survey, or aerial or satellite photograph showing the railway and the property in relation to each other.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:390(H).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 38:963 (April 2012).

§109. Notice to a Railroad Corporation

A. Upon receipt of a written request for an order to stop the closure of a private crossing or to reopen the crossing, the commissioner shall provide the appropriate railroad corporation with a copy of the request.

B. The railroad corporation shall have 30 calendar days from the receipt of the mailing of a copy of the request to file a response with the commissioner and to submit any documents and information that the corporation wishes to submit with its response.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:390(H).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 38:963 (April 2012).

§111. Notice of Decision

A. The commissioner's order granting or denying the request shall be in writing and shall be provided to the person making the request and the railroad corporation by certified U.S. Mail, return receipt requested, or by a commercial courier that provides a delivery receipt.

B. An order directing the railroad corporation to allow the private crossing to remain open or for the private crossing to be reopened and kept in good repair shall accompany the commissioner's decision if such an order is issued by the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:390(H).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 38:964 (April 2012).

Mike Strain, DVM
Commissioner

1204#051

RULE

Department of Children and Family Services
Division of Programs
Economic Stability Section

Verbal Fair Hearing Withdrawals (LAC 67:III.Chapter 3)

The Department of Children and Family Services exercises provisions of the Administrative Procedure Act, R.S. 49:953(B) and amends the Louisiana Administrative Code, Title 67, Part III, Subpart 1, Chapter 3, Sections 301, 303, 305, 307, 309, 311, 313, 315, 317, 319, 321, 323, 325, 327, 329, 331, and 333.

Pursuant to the authority granted to the Department of Children and Family Services, the agency amends Sections 301, 303, 305, 307, 309, 311, 313, 315, 317, 319, 321, 325, 327, 329, 331, and 333 of LAC 67:III.Chapter 3, to make the following changes and/or corrections to agency, section, or program names: change Office of Family Support to Department of Children and Family Services (DCFS), change the word agency to department, change the Department of Social Services (DSS) to the Department of Children and Family Services, change examiner/case manager to worker, change specialist to program coordinator, change eligibility worker to worker, change Food Stamp to Supplemental Nutrition Assistance Program (SNAP), change Kinship Care Subsidy to KCSP, change child care assistance to CCAP, correct supplemental security income to supplemental security income (SSI), change the agency responsible for providing the Fair Hearing Pamphlet from DSS Bureau of Appeals to Division of Administrative Law (DAL) or DCFS office, change DSS Bureau of Appeals to DCFS Appeals Unit, change FIND Work Program to STEP Program, and remove the reference to Refugee Cash Assistance (RCA).

Pursuant to the authority granted to the Department of Children and Family Services, and in accordance with Act 683 of the 2010 Legislative Session, the agency amends Sections 307, 319, 321, and 327, of Subpart 1, Chapter 3, to add that an appeal is timely requested if the request is received via fax, add that the DCFS Appeals Unit will schedule or cause to be scheduled all Fair Hearings and provide or cause to be provided a copy of the summary of evidence with the notice for scheduling the fair hearing.

Pursuant to a Food and Nutrition Services (FNS) SNAP letter dated September 21, 2011 granting approval to allow verbal withdrawal of appeals, Section 323 of Subpart 1, Chapter 3, is amended to accept a verbal statement from the household or its representative to withdraw a fair hearing for all programs.

Title 67
SOCIAL SERVICES
Part III. Economic Stability and Self-Sufficiency
Subpart 1. General Administrative Procedures

Chapter 3. Hearings

§301. Definitions

A. For all purposes of these rules and regulations, the terms defined in this Chapter shall have the following meanings, unless the context of use clearly indicates otherwise.

* * *

Adverse Notice—any written notice informing the client of any department action which unfavorably affects his case and when that action is effective.

Agency—Repealed.

Agency Conference—Repealed.

Appeal Decision—an official report which contains the substance of what transpired at the hearing and a summary of the case facts, identifies pertinent state or federal regulations, and gives the reason for the decision. It is the final written decision of the Department of Children and Family Services (DCFS), Appeals Unit, on the issue in question.

Authorized Agent—any person acting on behalf of an applicant/recipient. This may include a friend, relative, attorney, paralegal, legal guardian, conservator, or foster care provider. For Supplemental Nutrition Assistance Program (SNAP) purposes, it may also mean an authorized representative or another household member.

Benefits—any kind of assistance, payments or benefits made by the department for Family Independence Temporary Assistance Program (FITAP), Strategies to Empower People (STEP) Program, Kinship Care Subsidy Program (KCSP), Supplemental Nutrition Assistance Program (SNAP), or Child Care Assistance Program (CCAP).

* * *

Department—any operating unit of the Department of Children and Family Services (DCFS) such as local, regional, or state offices.

Department Conference—a meeting between the claimant and the department where a supervisor or administrator explains the action that is being appealed. It may be conducted by telephone if the claimant agrees. The worker/program coordinator may participate if the supervisor deems this appropriate and the claimant is in agreement.

Directive—a written communication from the DCFS Appeals Unit to the department giving specific instructions to be taken as a result of a hearing. This action shall be taken

within 10 days and reported to the DCFS Appeals Unit within 14 days of the receipt of the directive.

Fair Hearing—an administrative procedure during which a claimant, or a group of claimants, or his, or their, authorized agent may present a grievance and show why it is believed the department action, proposed action, or inaction is not fair and should be corrected. A fair hearing meets the due process requirements set forth in the U.S. Supreme Court decision in Goldberg vs. Kelly.

* * *

Public Assistance Household—a SNAP household in which all members receive FITAP, KCSP, or federal Supplemental Security Income (SSI).

Request for a Fair Hearing—any clear expression (oral or written) by the claimant or his authorized agent that he wants to appeal a department decision to a higher authority.

* * *

Summary of Evidence—a document prepared by the department stating the reason(s) the department decided to take the action being appealed. Its purpose is to provide the claimant information needed to prepare his case for the hearing.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:237.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:689 (July 1985), amended by Department of Social Services, Office of Family Support, LR 25:2259 (November 1999), LR 26:350 (February 2000), amended by the Department of Children and Family Services, Division of Programs, Economic Stability, LR 38:965 (April 2012).

§303. General Rules and Principles

A. The DCFS Appeals Unit is responsible for providing a system of hearings which must meet the due process standards set forth in federal regulations, state laws, and Goldberg vs. Kelly 397 US 245 (1970).

B. Each applicant is informed by the application and by the appropriate notification forms (as decisions are made affecting his case) of his right to a hearing, of the method by which a hearing may be requested, and who may present his case. Detailed information concerning the Fair Hearing procedure is contained in the Fair Hearing Pamphlet, Form OFS 5F, (which is provided by the Division of Administrative Law (DAL) or DCFS office) when a fair hearing is requested.

C. - D.7. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2260 (November 1999), amended by the Department of Children and Family Services, Division of Programs, Economic Stability, LR 38:965 (April 2012).

§305. Right to Request a Fair Hearing

A. Every applicant/recipient who believes he has been unjustly treated regarding benefits or services under any program administered by the Department of Children and Family Services may request a fair hearing.

B. The DCFS Appeals Unit has the right to deny a request for a fair hearing when:

1. the request is outside of the jurisdiction of the DCFS Appeals Unit;

2. the request for a hearing is made after the time limit has expired; or

3. the sole issue is one of state or federal law or regulation requiring automatic adjustment in benefits for classes of recipients.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2260 (November 1999), amended by the Department of Children and Family Services, Division of Programs, Economic Stability, LR 38:965 (April 2012).

§307. Time Limits for Requesting a Fair Hearing

A.1. When a decision is made on a case, the client is notified and is allowed the following number of days from the date of the notice to request a fair hearing.

FITAP	30 days
STEP Program	30 days
KCSP	30 days
CCAP	30 days
SNAP	90 days

2. The client may appeal at any time during a certification period for a dispute of the current level of benefits.

B. An appeal is timely requested if the appeal request:

1. is delivered on or before the due date; or

2. received via fax or mailed on or before the due date. If the appeal request is received by mail on the first working day following the due date, there shall be a rebuttable presumption that the appeal was timely filed. In all cases where the presumption does not apply, the timeliness of the mailing shall be shown only by an official United States postmark or by official receipt or certificate from the United States Postal Service made at the time of mailing which indicates the date thereof. For purposes of this Section, "by mail" applies only to the United States Postal Service.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S.36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2260 (November 1999), amended LR 26:350 (February 2000), amended by the Department of Children and Family Services, Division of Programs, Economic Stability, LR 38:965 (April 2012).

§309. Time Limits for Decisions to be Rendered

A. A prompt, definitive, and final decision must be provided within the number of days from the date of the Fair Hearing request as listed below.

FITAP	90 days
STEP Program	90 days
KCSP	90 days
CCAP	90 days
SNAP	60 days*

*or 90 days for Public Assistance households simultaneously appealing the same issue in Public Assistance and SNAP cases

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:237.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2261 (November

1999), amended LR 26:351 (February 2000), amended by the Department of Children and Family Services, Division of Programs, Economic Stability, LR 38:965 (April 2012).

§311. Expedited SNAP Hearings

A. The DCFS Appeals Unit and the department must expedite hearing decisions for SNAP households that plan to move from the jurisdiction of the hearing official before the hearing decision would normally be reached. Hearing requests from these households shall be expedited if necessary to enable them to receive a decision before they leave the area.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2261 (November 1999), amended by the Department of Children and Family Services, Division of Programs, Economic Stability, LR 38:966 (April 2012).

§313. Continuation of Benefits

A. Recipients in all categories, except STEP Program and CCAP, who request a fair hearing prior to the expiration of the advance notice of adverse action or within 13 days of the date of concurrent notice must have benefits continued at, or reinstated to, the benefit level of the previous month, unless:

1. - 3. ...

B. Benefits will continue at the prior level until the end of the certification period or until the resolution of the hearing, whichever is first. Such benefits are subject to recovery by the department if the action is upheld.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2261 (November 1999), amended by the Department of Children and Family Services, Division of Programs, Economic Stability, LR 38:966 (April 2012).

§315. Client Rights

A. The claimant or his authorized agent has the right to:

1. department assistance in filing and preparing his request or an explanation of how to file an appeal;

2. - 4. ...

5. review the case record. Upon request and at a reasonable time before the hearing, the claimant and/or his authorized agent must be allowed to review the claimant's case record or any documents to be used by the department at the hearing in the presence of a department representative:

a. - b. ...

6. present his case himself or with the aid of others, including legal representation;

7. request that a subpoena be issued. The DCFS Appeals Unit will evaluate such requests and authorize the department to serve the subpoena if appropriate;

8. request a postponement prior to the hearing. The DCFS Appeals Unit will decide if a postponement is to be granted based upon good cause. Regardless of good cause, requests for rescheduling an initial hearing for a SNAP appeal will be granted;

9. submit evidence and bring witnesses to the hearing. The claimant has the right to advance arguments without undue interference and to question or refute any testimony or evidence, including the right to confront and cross-examine witnesses;

10. request a rescheduled hearing after failing to appear at the hearing. The DCFS Appeals Unit will evaluate the requests to determine if good cause exists.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2261 (November 1999), amended by the Department of Children and Family Services, Division of Programs, Economic Stability, LR 38:966 (April 2012).

§317. Responsibility of DCFS Appeals Unit When a Fair Hearing is Requested

A. The DCFS Appeals Unit has the sole responsibility for accepting or rejecting all requests for a fair hearing.

B. The DCFS Appeals Unit must acknowledge fair hearing requests made directly to that office by or for a claimant, or requests submitted by the department. All requests must be denied or accepted in writing. The department will receive appropriate notification.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S.36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2262 (November 1999), amended by the Department of Children and Family Services, Division of Programs, Economic Stability, LR 38:966 (April 2012).

§319. Scheduling

A. The DCFS Appeals Unit will cause to be scheduled all fair hearings. The claimant, his authorized agent, and the department will be notified at least 10 days in advance of the time, place, and date of the hearing. Hearings will be scheduled during regular working hours and will normally be set in the department office, unless there are reasons for scheduling in another location.

B. Any hearing which is required or permitted hereunder may be conducted utilizing remote telephonic communications if the record reflects that all parties have consented to conducting the hearing by use of such communications and that such procedure will not jeopardize the rights of any party to the hearing. A face-to-face hearing will be conducted if requested by the appellant.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S .36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2262 (November 1999), amended by the Department of Children and Family Services, Division of Programs, Economic Stability, LR 38:966 (April 2012).

§321. Providing a Summary of Evidence to the Client

A. The DCFS Appeals Unit will provide or will cause to be provided a copy of the summary of evidence to the claimant or to his authorized agent with the notice for scheduling the fair hearing.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2262 (November 1999), amended by the Department of Children and Family Services, Division of Programs, Economic Stability, LR 38:966 (April 2012).

§323. Withdrawals

A. The claimant may withdraw his request for a fair hearing at any time prior to the hearing. The request for withdrawal may be stated verbally during a department

conference held by telephone or in person or submitted in writing to the local office or the DCFS Appeals Unit. The local office must send written notice to the client or the client's representative confirming the withdrawal for verbal withdrawals that are initiated at the local office level during a department conference. The DCFS Appeals Unit must send written notice to the client, the client's representative, and the department confirming the withdrawal for withdrawals that are initiated at the DCFS Appeals Unit and/or at the state office level.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2262 (November 1999), amended by the Department of Children and Family Services, Division of Programs, Economic Stability, LR 38:966 (April 2012).

§325. Dismissal of a Request for a Fair Hearing

A. A fair hearing request which is accepted by the DCFS Appeals Unit may be disposed of without a hearing and without a decision only when:

1. the request for a fair hearing is withdrawn; or

2. the claimant abandons his request for a hearing. If the claimant or his authorized agent fails to appear for a hearing and has made no contact with the department or the DCFS Appeals Unit, the request for a fair hearing will be considered abandoned. If he later requests to reschedule, the request will be evaluated for good cause;

3. the issue is settled in the claimant's favor by the department.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2262 (November 1999), amended by the Department of Children and Family Services, Division of Programs, Economic Stability, LR 38:967 (April 2012).

§327. Group Hearings

A. When a department policy or regulation is the sole issue, the DCFS Appeals Unit may schedule or cause to be scheduled a single group hearing to respond to a series of individual requests. Regulations governing individual fair hearings are followed. Each individual claimant must be permitted to present his case or be represented by an authorized agent. If a group hearing is arranged, an individual claimant must be given the right to withdraw from the group hearing in favor of an individual hearing.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2262 (November 1999), amended by the Department of Children and Family Services, Division of Programs, Economic Stability, LR 38:967 (April 2012).

§329. Attendance

A. Only persons directly concerned are permitted to attend the hearing. The claimant may be accompanied or represented by anyone he believes necessary or desirable to support his claim, including legal counsel if he so desires.

B. Appropriate department representatives and service providers are required to attend the hearing.

C. The administrative law judge has the authority to limit the number of persons in attendance.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2262 (November 1999), amended by the Department of Children and Family Services, Division of Programs, Economic Stability, LR 38:967 (April 2012).

§331. Hearing Official

A. Hearings shall be conducted by an impartial official(s) who:

1. does not have a personal involvement in the case;

2. was not directly involved in the initial determination of the action which is being contested; and

3. was not the immediate supervisor of the worker who took the action.

B. The hearing official shall be:

1. an individual under contract with the Department of Children and Family Services.

C. The hearing official shall:

1. - 4. ...

5. order, where relevant and useful, an independent medical assessment or professional evaluation from a source mutually satisfactory to the household and the Department of Children and Family Services;

6. provide a hearing record and recommendation for final decision by the hearing authority; or, if the hearing official is the hearing authority, render a hearing decision in the name of the Department of Children and Family Services which will resolve the dispute.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2262 (November 1999), amended by the Department of Children and Family Services, Division of Programs, Economic Stability, LR 38:967 (April 2012).

§333. Hearing Authority

A. - B. ...

C. A decision by the hearing authority shall be binding on the Department of Children and Family Services and shall summarize the facts of the case, specify the reasons for the decision, and identify the supporting evidence and the pertinent state or federal regulations. The decision shall become a part of the record. The household shall be notified in writing of the:

1. decision;

2. reasons for the decision;

3. available appeal rights; and

4. right to pursue judicial review of the decision.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2263 (November 1999), amended by the Department of Children and Family Services, Division of Programs, Economic Stability, LR 38:967 (April 2012).

Ruth Johnson
Secretary

1204#082

RULE

Department of Children and Family Services
Division of Programs
Licensing Section

Criminal Record Check, Sex Offender Prohibitions, and State Central Registry Disclosure
(LAC 67:V. 6703, 6708, 6710, 6955, 6957, 6959, 6961, 7105, 7107, and 7111)

The Department of Children and Family Services (DCFS), Division of Programs, Licensing Section in accordance with provisions of the Administrative Procedure Act, R.S. 49:953(A) has amended LAC 67:V, Subpart 8, Chapter 67 Maternity Home, Chapter 69, Child Residential Care, concerning Class "B" regulations, and Chapter 71, Child Residential Care, concerning Class "A" regulations.

Amendments have been made to Subpart 8, Sections 6703, 6955, 6957, 6959, 6961, 7105, 7107, and 7111. Sections 6708 and 6710 have been added to Chapter 67 to address state central registry and criminal background check requirements for staff and potential employees of maternity homes. The amendments include regulations that require state central registry disclosure of any individual that has a justified (valid) determination of child abuse or neglect as specified in R.S. 46:1414.1 and require providers to make an influenza notice available to parents as specified in R.S. 46:1414. Pursuant to R.S. 14:81.4(A), (B)(2) and (4), R.S.14:81.4 (E)(1), 91.1(A)(2), 91.2(B), (C), and (D), R.S. 14:91.2(E), 91.3, and 91.4 amendments have been added to prohibit any person that has been convicted of a sex offense as defined in R.S. 15:541 from owning, operating, or participating in the governance of a child residential facility or maternity home, prohibit any employer from knowingly employing a person convicted of a sex offense as defined in R.S. 15:541 to work in a child residential facility or maternity home, and require any owner/owners of a child residential facility or maternity home to provide documentation of a satisfactory criminal record check as required by R.S. 15:587.1.

This Rule was made active by an Emergency Rule effective November 2, 2011.

Title 67
SOCIAL SERVICES
Part V. Child Welfare
Subpart 8. Residential Licensing

Chapter 67. Maternity Home

§6703. Definition

A. ...

B. Additional Definitions

1. Definitions, as used in this Chapter:

* * *

Department (DCFS)—Department of Children and Family Services, formerly the Department of Social Services.

* * *

Individual Owner—a natural person who directly owns a facility without setting up or registering a corporation, LLC, partnership, church, university or governmental entity. The spouse of a married owner is also an owner unless the business is the separate property of the licensee acquired before his/her marriage, acquired through authentic act of sale from spouse of his/her undivided interest; or acquired via a judicial termination of the community of acquets and gains.

* * *

License—

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

ii. any license issued by the Department of Health and Hospitals to operate any facility providing services under Title XIX or XX of the Social Security Act; or

iii. any license issued by the Department of Health and Hospitals (or formerly issued by the Department of Social Services) to operate any adult residential care facility.

Licensing Section—DCFS, Division of Programs, Licensing Section.

Mandated Reporter—professionals who may work with children in the course of their professional duties and who consequently are required to report all suspected cases of child abuse and neglect. This includes any person who provides training and supervision of a child, such as a public or private school teacher, teacher's aide, instructional aide, school principal, school staff member, social worker, probation officer, foster home parent, group home or other child care institution staff member, personnel of maternity home facilities, a licensed or unlicensed day care provider, any individual who provides such services to a child, or any other person made a mandatory reporter under Article 603 of the Children's Code or other applicable law.

Owner or *Operator*—the individual who exercises ownership or control over a child care facility, whether such ownership/control is direct or indirect.

Ownership—the right that confers on a person direct, immediate, and exclusive authority over a thing. The owner of a thing may use, enjoy, and dispose of it within the limits and under the conditions established by law. Refers to direct or indirect ownership.

i. *Direct Ownership*—when a natural person is the immediate owner of a child care facility, i.e., exercising control personally rather than through a juridical person.

ii. *Indirect Ownership*—when the immediate owner is a juridical entity.

* * *

Reasonable Suspicion—suspicion based on specific and articulable facts which indicate that an owner, operator, or current or potential employee or volunteer has been investigated and determined to be the perpetrator of abuse or neglect against a minor resulting in a justified and/or valid finding currently recorded on the state central registry.

Staff—all full or part-time paid or unpaid staff who perform services for the maternity home and have direct or indirect contact with children at the facility. Facility staff includes the director and any other employees of the facility including, but not limited to the cook, housekeeper, driver, custodian, secretary, and bookkeeper.

State Central Registry—repository that identifies any individual reported to have a justified (valid) finding of abuse or neglect of a child or children by DCFS.

* * *

2. - 2.d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2694 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1570 (August 2009), amended LR 36:799, 835 (April 2010), repromulgated LR 36:1275 (June 2010), amended by the Department of Children and Family Services, Child Welfare Section, LR 36:2521 (November 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:968 (April 2012).

§6708. General Provisions

A. Conditions for Participation in a Child-Related Business

1. Any owner/owners of a maternity home shall provide documentation of a satisfactory criminal record check, as required by R.S. 46:51.2 and 15:587.1. A copy of the criminal background check shall be submitted for each owner of a facility with an initial application, a change of ownership (CHOW) application, a change of location (CHOL) application, and/or an application for renewal for maternity home license. No person with a criminal conviction of a felony, or a plea of guilty or nolo contendere of a felony, or plea of guilty or nolo contendere to any offense included in R.S. 15:587.1, or any offense involving a juvenile victim, shall directly or indirectly own, operate, or participate in the governance of a maternity home. In addition, an owner, or director shall not have a conviction of, or plea of guilty or nolo contender to any crime in which an act of fraud or intent to defraud is an element of the offense. The following is a listing of individuals by organizational type who are required to submit documentation of a satisfactory criminal background clearance:

a. individual ownership—individual and spouse;

b. partnership—all limited or general partners and managers as verified on the Secretary of State's website;

c. church owned, governmental entity, or university owned—any clergy and/or board member that is present in the facility during the hours of operation or when children are present;

d.i. corporation—any individual who has 25 percent or greater share in the business or any individual with less than a 25 percent share in the business and performs one or more of the following functions:

(a). has unsupervised access to the children in care at the facility;

(b). is present in the facility during hours of operation;

(c). makes decisions regarding the day-to-day operations of the facility;

(d). hires and/or fires maternity home staff including the director;

(e). oversees maternity home staff and/or conducts personnel evaluations of the maternity home staff; and/or

(f). writes the facility's policies and procedures;

ii. if an owner has less than a 25 percent share in the business and does not perform one or more of the functions listed above a signed, notarized attestation form is required in lieu of a criminal background clearance. This attestation form is a signed statement from each owner acknowledging that he/she has less than a 25 percent share in the business and that he/she does not perform one or more of the aforementioned functions as an owner.

2. Providers and child care staff shall not permit an individual convicted of a sex offense as defined in R.S. 15:541 to have physical access to a maternity home as defined in R.S. 46:1403.

3. The owner or director of a maternity home shall be required to call and notify law enforcement personnel and the Licensing Section management staff if they have knowledge that a registered sex offender is on the premises of the maternity home. The verbal report shall be followed by a written report to the Licensing Section within 24 hours. The owner or director of a maternity home shall be required to call and notify law enforcement personnel if they have knowledge that a registered sex offender is within 1,000 feet of the maternity home as required by R.S 14:91.1.

B. State Central Registry

1. All owners shall complete, sign, and date the state central registry disclosure form (SCR 1) as required by R.S. 46:1414.1. This information shall be reported prior to the individual being on the premises of the maternity home and shall be updated annually, at any time upon the request of DCFS, and within three business days of any owner receiving notice of a justified (valid) determination of child abuse or neglect.

a. Prospective owners shall complete, sign, and date the state central registry disclosure form and submit the disclosure form to DCFS licensing. If a prospective owner discloses that his or her name is currently recorded as a perpetrator on the state central registry, DCFS shall not proceed with the licensure process. The owner shall request a risk evaluation assessment on the risk evaluation panel form (SCR 2) or shall submit a signed, dated statement that he or she will not be on the premises of the facility at any time. DCFS will resume the licensure process when the owner provides written documentation from the Risk Evaluation Panel or the Division of Administrative Law noting that they do not pose a risk to children or the statement regarding their presence at the maternity home.

b. Within three business days of current owners receiving notice of a justified (valid) determination of child abuse and/or neglect, an updated state central registry disclosure form (SCR 1) shall be completed by the owner as required by R.S. 46:1414.1 and submitted to the Licensing Section management staff. The owner will have 10 calendar days from completion of the state central registry disclosure form to request a risk assessment evaluation in accordance with LAC 67:I.305. If on-site at the facility and immediately upon the knowledge that a justified (valid) finding has been issued by DCFS, the owner shall be directly supervised by a paid staff (employee) of the facility, who has not disclosed that their name appears with a justified (valid) finding on the state central registry. Under no circumstances may the owner with the justified finding be left alone and unsupervised with the children pending the disposition of the Risk Evaluation Panel or the Division of Administrative Law. If not on site at the maternity home, owner shall submit a signed, dated statement that he or she will not be on the premises of the facility at any time.

i. If the Risk Evaluation Panel finds the owner does pose a risk to children and the individual chooses not to appeal the finding, the owner shall not be on the maternity home premises at any time.

ii. If the Risk Evaluation Panel finds the owner does pose a risk to children and the individual appeals the finding to the Division of Administrative Law within the required timeframe, the owner shall continue to be under direct supervision at all times by a paid staff (employee) of the facility who has not disclosed that they have a justified finding on the state central registry until a ruling is made by the Division of Administrative Law that they do not pose a risk to children. Supervision may end upon receipt of the ruling from the Division of Administrative Law that the owner does not pose a risk to children.

iii. If the Division of Administrative Law upholds the Risk Evaluation Panel finding that the individual does pose a risk to children, the owner shall not be on the maternity home premises at any time.

2. State central registry disclosure forms, documentation of any disposition of the Risk Evaluation Panel and, when applicable, the Division of Administrative Law ruling shall be maintained in accordance with current DCFS licensing requirements and shall be available for review by DCFS personnel during the facility's hours of operation. This information shall be kept on file for a minimum of one year from termination of the employee or volunteer from the facility.

3. Any information received or knowledge acquired that a current or prospective owner, operator, volunteer, employee, prospective volunteer, or prospective employee has falsified a state central registry disclosure form stating that they are not currently recorded as a perpetrator with a justified (valid) determination of abuse or neglect shall be reported in writing to Licensing Section management staff as soon as possible, but no later than the close of business on the next business day.

4. Any state central registry disclosure form, Risk Evaluation Panel finding, and Division of Administrative Law ruling that is maintained in a maternity home facility licensing file shall be confidential and subject to the confidentiality provisions of R.S. 46:56(F) pertaining to the investigations of abuse and neglect.

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

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:969 (April 2012).

§6710. Personnel Files

A. Prior to employment, each prospective employee/volunteer shall complete a state central registry disclosure form prepared by the department as required in R.S. 46:1414.1. This information shall be reported prior to the individual being on the premises of the maternity home and shall be updated annually, at any time upon the request of DCFS, and within three business days of any staff receiving notice of a justified (valid) determination of child abuse or neglect.

1. The prospective paid staff (employee/volunteer) shall complete, sign, and date the state central registry disclosure form and submit the disclosure form to the owner or operator of the facility.

a. If a prospective staff (employee/volunteer) discloses that his or her name is currently recorded as a perpetrator on the state central registry, the director shall inform the applicant they will not be considered for employment at that time due to the state central registry disclosure. The director will provide the prospective employee/volunteer with the risk evaluation panel form (SCR 2) so that a risk assessment evaluation may be requested.

b. Individuals are not eligible for employment unless and until they provide written documentation from the Risk Evaluation Panel or the Division of Administrative Law expressly stating that they do not pose a risk to children.

2. Current staff receiving notice of a justified (valid) determination of child abuse and/or neglect shall complete an updated state central registry disclosure form (SCR 1) noting the existence of the justified (valid) determination as required by R.S. 46:1414.1. This updated SCR 1 shall be submitted to the Licensing Section management staff within three business days or upon being on the maternity home premises, whichever is sooner. Staff will have 10 calendar days from completion of the state central registry disclosure form to request a risk assessment evaluation in accordance with LAC 67:I.305 or shall be terminated immediately.

a. If the staff person will no longer be employed at the facility, the provider shall submit a signed, dated statement indicating that the staff will not be on the premises of the facility at any time.

b. Immediately upon the receipt of the knowledge that a justified (valid) finding has been issued by DCFS and as a condition of continued employment the staff person shall be directly supervised by a paid staff (employee/volunteer) of the facility who has not disclosed that their name appears with a justified (valid) finding on the state central registry. Provider shall submit a written statement to Licensing Section management staff acknowledging that the staff is under continuous direct supervision by a paid staff who has not disclosed that their name appears with a justified (valid) finding on the state central registry. When these conditions are met, the staff (employee/volunteer) may be counted in child staff ratio. Under no circumstances may the staff person with the justified finding be left alone and unsupervised with the children pending the disposition by the Risk Evaluation Panel or the Division of Administrative Law that the staff person does not pose a risk to children.

c. If the Risk Evaluation Panel finds the individual does pose a risk to children and the individual chooses not to appeal the finding, the staff (employee/volunteer) shall be terminated immediately.

d. If the Risk Evaluation Panel finds the individual does pose a risk to children and the individual appeals the finding to the Division of Administrative Law within the required timeframe, the staff (employee/volunteer) shall continue to be under direct supervision at all times by another paid employee/volunteer of the facility who has not disclosed that they have a justified finding on the state central registry until a ruling is made by the Division of Administrative Law that they do not pose a risk to children. Supervision may end upon receipt of the ruling from the

Division of Administrative Law that they do not pose a risk to children.

e. If the Division of Administrative Law upholds the Risk Evaluation Panel finding that the individual does pose a risk to children, the individual shall be terminated immediately.

3. Any owner, operator, current or prospective employee/volunteer, or volunteer of a maternity home requesting licensure by DCFS and/or a maternity home licensed by DCFS is prohibited from working in a maternity home if the individual discloses, or information is known or received by DCFS, that the individual's name is recorded on the state central registry (SCR) as a perpetrator for a justified (valid) finding of abuse or neglect of a child, unless there is a finding by the Risk Evaluation Panel or a ruling by the Division of Administrative Law that the individual does not pose a risk to children.

4. No person, having any supervisory or other interaction with residents, shall be hired or on the premises of the facility until such person has submitted his or her fingerprints to the Louisiana Bureau of Criminal Identification and Information and it has been determined that such person has not been convicted of or pled nolo contendere to a crime listed in R.S. 15:587.1(C). This shall include any employee/volunteer or non-employee who performs paid or unpaid work with the provider to include independent contractors, consultants, students, volunteers, trainees, or any other associated person, as defined in these rules.

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

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:970 (April 2012).

Chapter 69. Child Residential Care

§6955. Procedures

NOTE: This Section has been moved from LAC 67:I.1955.

A. - A.2.e.v. ...

vi. a completed licensure inspection verifying compliance with these standards;

vii. full license fee paid; and

viii. any owner/owners of a residential facility shall provide documentation of a satisfactory criminal record check, as required by R.S. 46:51.2 and 15:587.1.

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

C. Renewal of the License

1. A license shall be renewed on an annual basis. The month of issue of the initial license becomes the anniversary month for all renewals. A license shall expire on the last day of the anniversary month unless prior to that time the provider has made timely application for renewal as provided in Subparagraph C.2 below.

2. The provider shall submit, at least 60 days prior to its license expiration date, a completed renewal application form and applicable fee. Failure to submit a completed renewal form, applicable fee, and any of the documentation listed below within the time frame set forth herein shall cause the license to expire on its anniversary date. Once a license has expired, a provider may submit an application for an initial license in the manner prescribed in these regulations. The following documentation shall be submitted with the renewal application form:

a. Office of Fire Marshal approval for occupancy;

b. Office of Public Health, Sanitarian Services approval;

c. city fire department approval, if applicable;

d. copy of proof of current general liability and property insurance for facility;

e. copy of proof of insurance for vehicle(s); and

f. copy of a satisfactory criminal record check as required by R.S. 46:51.2 and 15:587.1 for any owner/owners.

3. Prior to renewing the CRF license, an on-site survey shall be conducted to assure compliance with all licensing laws and standards. If the CRF is found to be in compliance with the licensing laws and standards, and any other required statutes, laws, ordinances, or regulations, the license shall be renewed for a 12-month period.

4. In the event the annual licensing survey finds the CRF is non-compliant with any licensing laws or standards, or any other required statutes, ordinances or regulations but the department, in its sole discretion, determines that the noncompliance does not present a threat to the health, safety, or welfare of the participants, the provider shall be required to submit a corrective action plan to the department for approval. The department shall specify the timeline for submitting the corrective action plan based on such non-compliance or deficiencies cited but no later than 10 days from the date of notification. The corrective action plan shall include a description of how the deficiency shall be corrected and the date by which correction(s) shall be completed. Failure to submit an approved corrective action plan timely, or submission of a corrective action plan deemed by the department to be insufficient to adequately address the deficiencies in a timely and effective manner, shall be grounds for non-renewal.

5. If it is determined that such noncompliance or deficiencies have not been corrected prior to the expiration of the license, the department at its sole discretion, may issue an extension of the license for a period not to exceed 60 days.

6. When it is determined by the department that such noncompliance or deficiencies have been corrected, a license may be issued for a period not to exceed 12 months.

7. If it is determined that all areas of noncompliance or deficiencies have not been corrected prior to the expiration date of the extension, the department may revoke the license.

D. - D.2.e. ...

f. the facility is closed with no plans for reopening and no means of verifying compliance with minimum standards for licensure;

g. any act of fraud such as falsifying or altering documents required for licensure;

h. permit an individual with a justified (valid) finding of child/abuse neglect to be on the premises without being directly supervised by another paid employee of the facility, who has not disclosed that their name appears with a justified (valid) finding on the state central registry prior to a determination by the Risk Evaluation Panel or Division of Administrative Law that the individual does not pose a risk to children; or to knowingly permit an individual who has not disclosed that their name appears with a justified (valid)

finding on the state central registry to be on the premises at any time, whether supervised or not supervised;

i. permit an individual, whether supervised or not supervised to be on the child residential premises with a ruling by the Risk Evaluation Panel that the individual poses a risk to children and the individual has not requested an appeal hearing by the or nolo contendere to, any offense included in R.S. 15:587.1, or any offense involving a juvenile victim;

j. have a criminal background, as evidenced by the employment or ownership or continued employment or ownership of or by any individual (paid or unpaid staff) who has been convicted of, or pled guilty or nolo contendere to, any offense included in R.S. 15:587.1, or to any offense involving a juvenile victim;

k. own a child residential business and have been convicted of or have pled guilty or nolo contender to any crime in which an act of fraud or intent to defraud is an element of the offense;

l. have knowledge that a convicted sex offender is on the premises of the child care facility and fail to notify law enforcement and licensing management staff immediately upon receipt of such knowledge; or

m. have knowledge that a convicted sex offender is physically present within 1,000 feet of the child care facility and fail to notify law enforcement immediately upon receipt of such knowledge.

E. - F.1.d. ...

G. Disqualification from Application

1. Definitions, as used in Section 6955.G:

* * *

Department—Repealed.

* * *

Facility—Repealed.

License—any license issued by the department to operate any child care facility or child-placing agency as defined in R.S. 46:1403; or any license issued by the Department of Health and Hospitals to operate any facility providing services under Title XIX or XX of the Social Security Act; or any license issued by the Department of Health and Hospitals (or formerly issued by the Department of Social Services) to operate any adult residential care facility.

* * *

2. - 2.d. ...

H. - H.2.d. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477, R.S. 46:1410 et seq., R.S.46:1401-1424 and R.S. 46:1414.1.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:1565 (September 2001), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2740 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1617 (August 2009), amended LR 36:331 (February 2010), LR 36:836, 842 (April 2010), repromulgated LR 36:1032 (May 2010), repromulgated LR 36:1277 (June 2010), amended by the Department of Children and Family Services, Child Welfare Section, LR 36:1463 (July 2010), amended by the Department of Children and Family Services, Child Welfare Section and Economic Stability and Self-Sufficiency Section, LR 36:2522 (November 2010), repromulgated LR 36:2838 (December 2010), amended by the Department of Children and family Services, Division of Programs, Licensing Section, LR 38:971 (April 2012).

§6957. Definitions

NOTE: This Section has been moved from LAC 67:I.1957.

* * *

Department (DCFS)—Department of Children and Family Services formerly the Department of Social Services.

* * *

Documentation—written evidence or proof, signed and dated by the parties involved (director, parents, staff, etc.), and available for review.

* * *

Facility—any place, program, institution, or agency operating a child care facility or child-placing agency as defined in R.S. 46:1403, including those owned or operated by governmental, private, or religious organization or entity.

* * *

Individual Owner—a natural person who directly owns a facility without setting up or registering a corporation, LLC, partnership, church, university or governmental entity. The spouse of a married owner is also an owner unless the business is the separate property of the licensee acquired before his/her marriage, acquired through authentic act of sale from spouse of his/her undivided interest; or acquired via a judicial termination of the community of aquets and gains.

* * *

Licensing Section—DCFS, Division of Programs, Licensing Section.

* * *

Mandated Reporter—professionals who may work with children in the course of their professional duties and who consequently are required to report all suspected cases of child abuse and neglect. This includes any person who provides training and supervision of a child, such as a public or private school teacher, teacher's aide, instructional aide, school principal, school staff member, social worker, probation officer, foster home parent, group home or other child care institution staff member, personnel of residential home facilities, a licensed or unlicensed day care provider, any individual who provides such services to a child, or any other person made a mandatory reporter under Article 603 of the Children's Code or other applicable law.

Owner or *Operator*—the individual who exercises ownership or control over a child care facility, whether such ownership/control is direct or indirect.

Ownership—the right that confers on a person direct, immediate, and exclusive authority over a thing. The owner of a thing may use, enjoy, and dispose of it within the limits and under the conditions established by law. Refers to direct or indirect ownership.

1. *Direct Ownership*—when a natural person is the immediate owner of a child care facility, i.e., exercising control personally rather than through a juridical person.

2. *Indirect Ownership*—when the immediate owner is a juridical entity.

* * *

Reasonable Suspicion—suspicion based on specific and articulable facts which indicate that an owner, operator, or current or potential employee or volunteer has been investigated and determined to be the perpetrator of abuse or

neglect against a minor resulting in a justified and/or valid finding currently recorded on the state central registry.

* * *

Safety Interventions—an immediate time limited plan to control the factor(s) that may result in an immediate or impending serious injury/harm to a child(ren).

* * *

Staff—all full or part-time paid or unpaid staff who perform services for the child residential facility and have direct or indirect contact with children at the facility. Facility staff includes the director and any other employees of the facility including, but not limited to the cook, housekeeper, driver, custodian, secretary, and bookkeeper excluding extra-curricular personnel.

State Central Registry—repository that identifies any individual reported to have a justified (valid) finding of abuse or neglect of a child or children by DCFS.

* * *

Unlicensed Operation—operation of any child residential facility, at any location, without a valid, current license issued by the department for that location.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1410 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:1567 (September 2001), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2742 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1619 (August 2009), amended by the Department of Children and Family Services, Division of Program, Licensing Sections, LR 38:972 (April 2012).

§6959. Administration and Organization

NOTE: This Section has been moved from LAC 67:I.1959.

A. - B.2. ...

3. Any owner/owners of a child residential facility shall provide documentation of a satisfactory criminal record check, as required by R.S. 46:51.2 and 15:587.1. A copy of the criminal background check shall be submitted for each owner of a facility with an initial application, a change of ownership (CHOW) application, a change of location (CHOL) application, and/or an application for renewal for a child residential license. No person with a criminal conviction for, or a plea of guilty or nolo contendere to, any offense included in R.S. 15:587.1, or any offense involving a juvenile victim, shall directly or indirectly own, operate, or participate in the governance of a child residential facility. In addition, an owner, or director shall not have a conviction of, or plea of guilty or nolo contender to any crime in which an act of fraud or intent to defraud is an element of the offense. The following is a listing of individuals by organizational type who are required to submit documentation of a satisfactory criminal background clearance:

a. individual ownership—individual and spouse;

b. partnership—all limited or general partners and managers as verified on the Secretary of State's website;

c. church owned, governmental entity, or university owned—any clergy and/or board member that is present in the facility during the hours of operation or when children are present;

d.i. corporation—any individual who has 25 percent or greater share in the business or any individual with less than a 25 percent share in the business and performs one or more of the following functions:

(a). has unsupervised access to the children in care at the facility;

(b). is present in the facility during hours of operation;

(c). makes decisions regarding the day-to-day operations of the facility;

(d). hires and/or fires child care staff including the director;

(e). oversees child residential staff and/or conducts personnel evaluations of the child care staff; and/or

(f). writes the facility's policies and procedures;

ii. if an owner has less than a 25 percent share in the business and does not perform one or more of the functions listed above a signed, notarized attestation form is required in lieu of a criminal background clearance. This attestation form is a signed statement from each owner acknowledging that he/she has less than a 25 percent share in the business and that he/she does not perform one or more of the aforementioned functions as an owner.

4. Providers and child care staff shall not permit an individual convicted of a sex offense as defined in R.S. 15:541 to have physical access to a child residential facility as defined in R.S. 46:1403.

5. The owner or director of a child residential facility shall be required to call and notify law enforcement personnel and the Licensing Section management staff if they have knowledge that a registered sex offender is on the premises of the child residential facility. The verbal report shall be followed by a written report to the Licensing Section within 24 hours. The owner or director of a child residential facility shall be required to call and notify law enforcement personnel if they have knowledge that a registered sex offender is within 1,000 feet of the child day care facility as required by R.S 14:91.1.

6. All owners shall complete, sign, and date the state central registry disclosure form (SCR 1) as required by R.S. 46:1414.1. This information shall be reported prior to the individual being on the premises of the child residential facility and shall be updated annually, at any time upon the request of DCFS, and within three business days of any owner receiving notice of a justified (valid) determination of child abuse or neglect.

a. Prospective owners shall complete, sign, and date the state central registry disclosure form and submit the disclosure form to DCFS licensing. If a prospective owner discloses that his or her name is currently recorded as a perpetrator on the state central registry, DCFS shall not proceed with the licensure process. The owner shall request a risk evaluation assessment on the risk evaluation panel form (SCR 2) or shall submit a signed, dated statement that he or she will not be on the premises of the facility at any time. DCFS will resume the licensure process when the owner provides written documentation from the Risk Evaluation Panel or the Division of Administrative Law noting that they do not pose a risk to children or the statement regarding their presence at the child residential facility.

b. Within three business days of current owners receiving notice of a justified (valid) determination of child abuse and/or neglect, an updated state central registry

disclosure form (SCR 1) shall be completed by the owner as required by R.S. 46:1414.1. and submitted to the Licensing Section management staff. The owner will have 10 calendar days from completion of the state central registry disclosure form to request a risk assessment evaluation in accordance with LAC 67:I.305. If on-site at the facility and immediately upon the knowledge that a justified (valid) finding has been issued by DCFS, the owner shall be directly supervised by a paid staff (employee) of the facility, who has not disclosed that their name appears with a justified (valid) finding on the state central registry. Under no circumstances may the owner with the justified finding be left alone and unsupervised with the children pending the disposition of the Risk Evaluation Panel or the Division of Administrative Law. If not on site at the child residential facility, owner shall submit a signed, dated statement that he or she will not be on the premises of the facility at any time.

i. If the Risk Evaluation Panel finds the owner does pose a risk to children and the individual chooses not to appeal the finding, the owner shall not be on the child residential premises at any time.

ii. If the Risk Evaluation Panel finds the owner does pose a risk to children and the individual appeals the finding to the Division of Administrative Law within the required timeframe, the owner shall continue to be under direct supervision at all times by a paid staff (employee) of the facility who has not disclosed that they have a justified finding on the state central registry until a ruling is made by the Division of Administrative Law that they do not pose a risk to children. Supervision may end upon receipt of the ruling from the Division of Administrative Law that the owner does not pose a risk to children.

iii. If the Division of Administrative Law upholds the Risk Evaluation Panel finding that the individual does pose a risk to children, the owner shall not be on the child residential premises at any time.

7. State central registry disclosure forms, documentation of any disposition of the Risk Evaluation Panel and, when applicable, the Division of Administrative Law ruling shall be maintained in accordance with current DCFS licensing requirements and shall be available for review by DCFS personnel during the facility's hours of operation. This information shall be kept on file for a minimum of one year from termination of the employee or volunteer from the facility.

8. Any information received or knowledge acquired that a current or prospective owner, operator, volunteer, employee, prospective volunteer, or prospective employee has falsified a state central registry disclosure form stating that they are not currently recorded as a perpetrator with a justified (valid) determination of abuse or neglect shall be reported in writing to Licensing Section management staff as soon as possible, but no later than the close of business on the next business day.

9. Any state central registry disclosure form, Risk Evaluation Panel finding, and Division of Administrative Law ruling that is maintained in a child residential facility licensing file shall be confidential and subject to the confidentiality provisions of R.S. 46:56(F) pertaining to the investigations of abuse and neglect.

10. In accordance with R.S. 46:1428 providers shall make available to each child's parent or legal guardian information relative to the risks associated with influenza and the availability, effectiveness, known contraindications and possible side effects of the influenza immunization. This information shall include the causes and symptoms of influenza, the means by which influenza is spread, the places a parent or legal guardian may obtain additional information and where a child may be immunized against influenza. The information shall be updated annually if new information on the disease is available. The information shall be provided annually to each licensed facility by the Department of Children and Family Services and shall be made available to parents or legal guardians prior to November 1 of each year.

C. - O.1.c. ...

d. documentation of a satisfactory criminal record check from Louisiana State Police as required by R.S. 46:51.2. This check shall be obtained prior to the individual being present in the child residential facility. No person who has been convicted of, or pled guilty or nolo contendere to, any offense included in R.S. 15:587.1, or any offense involving a juvenile victim, shall be eligible to own, operate, and/or be present in any capacity in any licensed child residential facility. For any owner or operator, a clear criminal background check in accordance with R.S. 46:51.2 shall be obtained prior to the issuance of a license or approval of a change of ownership. In addition, neither an owner, nor a director shall have a conviction of, or pled guilty or nolo contender to any crime in which an act of fraud or intent to defraud is an element of the offense;

i. any employee who is convicted of or has pled nolo contendere to any crime listed in R.S. 15:587.1(c) shall not continue employment after such conviction or nolo contendere plea;

e. evidence of applicable professional credentials/certifications according to state law;

f. annual performance evaluations;

g. personnel actions, other appropriate materials, reports and notes relating to the individual's employment with the facility;

h. employee's starting and termination dates;

i. prior to employment, each prospective employee shall complete a state central registry disclosure form prepared by the department as required in RS 46:1414.1. This information shall be reported prior to the individual being on the premises of the child residential facility and shall be updated annually, at any time upon the request of DCFS, and within three business days of any staff receiving notice of a justified (valid) determination of child abuse or neglect;

i. the prospective paid staff (employee) shall complete, sign, and date the state central registry disclosure form and submit the disclosure form to the owner or operator of the facility;

(a). if a prospective staff (employee)discloses that his or her name is currently recorded as a perpetrator on the state central registry, the director shall inform the applicant they will not be considered for employment at that time due to the state central registry disclosure. The director will provide the prospective employee with the risk evaluation panel form (SCR 2) so that a risk assessment evaluation may be requested;

(b). individuals are not eligible for employment unless and until they provide written documentation from

the Risk Evaluation Panel or the Division of Administrative Law expressly stating that they do not pose a risk to children;

ii. current staff receiving notice of a justified (valid) determination of child abuse and/or neglect shall complete an updated state central registry disclosure form (SCR 1) noting the existence of the justified (valid) determination as required by R.S. 46:1414.1. This updated SCR 1 shall be submitted to the Licensing Section management staff within three business days or upon being on the child residential premises, whichever is sooner. Staff will have 10 calendar days from completion of the state central registry disclosure form to request a risk assessment evaluation in accordance with LAC 67:I.305 or shall be terminated immediately;

(a). if the staff person will no longer be employed at the facility, the provider shall submit a signed, dated statement indicating that the staff will not be on the premises of the facility at any time;

(b). immediately upon the receipt of the knowledge that a justified (valid) finding has been issued by DCFS and as a condition of continued employment the staff person shall be directly supervised by a paid staff (employee) of the facility who has not disclosed that their name appears with a justified (valid) finding on the state central registry. Provider shall submit a written statement to Licensing Section management staff acknowledging that the staff is under continuous direct supervision by a paid staff who has not disclosed that their name appears with a justified (valid) finding on the state central registry. When these conditions are met, the staff (employee) may be counted in child staff ratio. Under no circumstances may the staff person with the justified finding be left alone and unsupervised with the children pending the disposition by the Risk Evaluation Panel or the Division of Administrative Law that the staff person does not pose a risk to children;

(c). if the Risk Evaluation Panel finds the individual does pose a risk to children and the individual chooses not to appeal the finding, the staff (employee) shall be terminated immediately;

(d). if the Risk Evaluation Panel finds the individual does pose a risk to children and the individual appeals the finding to the Division of Administrative Law within the required timeframe, the staff (employee) shall continue to be under direct supervision at all times by another paid employee of the facility who has not disclosed that they have a justified finding on the state central registry until a ruling is made by the Division of Administrative Law that they do not pose a risk to children. Supervision may end upon receipt of the ruling from the Division of Administrative Law that they do not pose a risk to children;

(e). if the Division of Administrative Law upholds the Risk Evaluation Panel finding that the individual does pose a risk to children, the individual shall be terminated immediately;

iii. any owner, operator, current or prospective employee, or volunteer of a child residential facility requesting licensure by DCFS and/or a child residential facility licensed by DCFS is prohibited from working in a child residential facility if the individual discloses, or information is known or received by DCFS, that the individual's name is recorded on the state central registry (SCR) as a perpetrator for a justified (valid) finding of abuse or neglect of a child, unless there is a finding by the Risk Evaluation Panel or a ruling by the Division of Administrative Law that the individual does not pose a risk to children.

O.2. - Q. ...

R. Facility, Staff, Client and Records Accessibility

1. The provider shall allow representatives of DCFS access to the facility, the children, and all files and records at any time during hours of operation and/or anytime a child is present. DCFS staff shall be allowed to interview any staff member or child as determined necessary by DCFS. DCFS representatives shall be admitted immediately and without delay, and shall be given free access to all areas of a facility, including its grounds. If any portion of a facility is set aside for private use by the facility's owner, DCFS representatives shall be permitted to verify that no child is present in that portion and that the private areas are inaccessible to children. If as a result of a preliminary investigation, or other DCFS inspection, DCFS determines that one or more safety issues exists, DCFS may require implementation of a safety intervention plan. In such a case, the provider shall cooperate and adhere to any written safety intervention as determined, enumerated, and mandated by DCFS staff.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:1567 (September 2001), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2743 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1620 (August 2009), amended LR 36:331 (February 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:973 (April 2012).

§6961. Human Resources

NOTE: This Section has been moved from LAC 67:I.1961.

A. - E.2. ...

3. subject to character and reference checks similar to those performed for employment applicants upon obtaining a signed release and the names of the references from the potential volunteer/intern student;

4. aware of and briefed on any special needs or problems of clients;

5. have a criminal background check as required in R.S. 15:587.1 and R.S. 46:51.2 and as outlined in Section 6959.O.1.d; and

6. have a completed state central registry disclosure form prepared by the department whether or not his/her name is currently recorded on the state central registry for a justified finding of abuse or neglect and he/she is the named perpetrator as required in R.S. 46.1414.1.

a. This information shall be reported prior to the individual being on the premises of the child residential facility and shall be updated annually, at any time upon the request of DCFS, and within three business days of any staff and/or volunteer receiving notice of a justified (valid) determination of child abuse or neglect.

b. The prospective non-paid staff (volunteer) shall complete, sign, and date the state central registry disclosure form and submit the disclosure form to the owner or operator of the facility.

i. If a prospective staff non-paid (volunteer) discloses that his or her name is currently recorded as a perpetrator on the state central registry, the director shall inform the applicant they will not be considered for volunteer duties at that time due to the state central registry disclosure. The director will provide the prospective volunteer with the risk evaluation panel form (SCR 2) so that a risk assessment evaluation may be requested.

ii. Individuals are eligible for volunteer services if and when they provide written documentation from the Risk Evaluation Panel or the Division of Administrative Law noting that they do not pose a risk to children.

c. Current volunteers receiving notice of a justified (valid) determination of child abuse and/or neglect shall complete an updated state central registry disclosure form (SCR 1) noting the existence of the justified (valid) determination as required by R.S. 46:1414.1. This updated SCR 1 shall be submitted to the Licensing Section management staff within three business days or upon being on the child residential premises, whichever is sooner. Volunteers will have 10 calendar days from completion of the state central registry disclosure form to request a risk assessment evaluation in accordance with LAC 67:I.305 or shall be terminated immediately.

i. If the volunteer will no longer be employed at or provide volunteer services at the facility, the provider shall submit a signed, dated statement indicating that the volunteer will not be on the premises of the facility at any time.

ii. Immediately upon the receipt of the knowledge that a justified (valid) finding has been issued by DCFS and as a condition of continued volunteer services, the staff person shall be directly supervised by a paid staff (employee) of the facility who has not disclosed that their name appears with a justified (valid) finding on the state central registry. Provider shall submit a written statement to Licensing Section management staff acknowledging that the volunteer is under continuous direct supervision by a paid staff who has not disclosed that their name appears with a justified (valid) finding on the state central registry. When these conditions are met, the non-paid staff (volunteer) may be counted in child staff ratio. Under no circumstances may the volunteer with the justified finding be left alone and unsupervised with the children pending the disposition by the Risk Evaluation Panel or the Division of Administrative Law that the staff person does not pose a risk to children.

iii. If the Risk Evaluation Panel finds the individual does pose a risk to children and the individual chooses not to appeal the finding, the non-paid staff (volunteer) shall be terminated immediately.

iv. If the Risk Evaluation Panel finds the individual does pose a risk to children and the individual appeals the finding to the Division of Administrative Law within the required timeframe, the non-paid staff (volunteer) shall continue to be under direct supervision at all times by another paid employee of the facility who has not disclosed that they have a justified finding on the state central registry until a ruling is made by the Division of Administrative Law that they do not pose a risk to children. Supervision may end upon receipt of the ruling from the Division of Administrative Law that they do not pose a risk to children.

v. If the Division of Administrative Law upholds the Risk Evaluation Panel finding that the individual does pose a risk to children, the individual shall be terminated immediately.

d. Any owner, operator, current or prospective employee, or volunteer of a child residential facility requesting licensure by DCFS and/or a child residential facility licensed by DCFS is prohibited from working in a child residential facility if the individual discloses, or information is known or received by DCFS, that the individual's name is recorded on the state central registry (SCR) as a perpetrator for a justified (valid) finding of abuse or neglect of a child, unless there is a finding by the Risk Evaluation Panel or a ruling by the Division of Administrative Law that the individual does not pose a risk to children.

F. - F.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1410 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:1570 (September 2001), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2745 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1622 (August 2009), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:975 (April 2012).

Chapter 71. Child Residential Care

§7105. Definitions

A. As used in this Chapter:

* * *

Department (DCFS)—Department of Children and Family Services, formerly the Department of Social Services.

* * *

Documentation—written evidence or proof, signed and dated by the parties involved (director, parents, staff, etc.), and available for review.

* * *

Facility—any place, program, institution, or agency operating a child care facility or child-placing agency as defined in R.S. 46:1403, including those owned or operated by governmental, private, or religious organization or entity.

* * *

Individual Owner—a natural person who directly owns a facility without setting up or registering a corporation, LLC, partnership, church, university or governmental entity. The spouse of a married owner is also an owner unless the business is the separate property of the licensee acquired before his/her marriage, acquired through authentic act of sale from spouse of his/her undivided interest; or acquired via a judicial termination of the community of aquets and gains.

* * *

License—

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

b. any license issued by the Department of Health and Hospitals to operate any facility providing services under Title XIX or XX of the Social Security Act; or

c. any license issued by the Department of Health and Hospitals (or formerly issued by the Department of Social Services) to operate any adult residential care facility.

Licensing Section—DCFS, Division of Programs, Licensing Section.

Mandated Reporter—professionals who may work with children in the course of their professional duties and who consequently are required to report all suspected cases of child abuse and neglect. This includes any person who provides training and supervision of a child, such as a public or private school teacher, teacher's aide, instructional aide, school principal, school staff member, social worker, probation officer, foster home parent, group home or other child care institution staff member, personnel of residential home facilities, a licensed or unlicensed day care provider, any individual who provides such services to a child, or any other person made a mandatory reporter under Article 603 of the Children's Code or other applicable law.

Medication—all drugs administered internally and/or externally, whether over-the-counter or prescribed.

* * *

Owner or *Operator*—the individual who exercises ownership or control over a child residential care facility, whether such ownership/control is direct or indirect.

Ownership—the right that confers on a person direct, immediate, and exclusive authority over a thing. The owner of a thing may use, enjoy, and dispose of it within the limits and under the conditions established by law. Refers to direct or indirect ownership.

a. *Direct Ownership*—when a natural person is the immediate owner of a child residential care facility, i.e., exercising control personally rather than through a juridical person.

b. *Indirect Ownership*—when the immediate owner is a juridical entity.

* * *

Reasonable Suspicion—suspicion based on specific and articulable facts which indicate that an owner, operator, or current or potential employee or volunteer has been investigated and determined to be the perpetrator of abuse or neglect against a minor resulting in a justified and/or valid finding currently recorded on the state central registry.

* * *

Safety Interventions—an immediate time limited plan to control the factor(s) that may result in an immediate or impending serious injury/harm to a child(ren).

* * *

Staff—all full or part-time paid or unpaid staff who perform services for the child residential facility and have direct or indirect contact with children at the facility. Facility staff includes the director and any other employees of the facility including, but not limited to the cook, housekeeper, driver, custodian, secretary, and bookkeeper excluding extra-curricular personnel.

State Central Registry—repository that identifies any individual reported to have a justified (valid) finding of abuse or neglect of a child or children by DCFS.

* * *

Unlicensed Operation—operation of any child residential facility, at any location, without a valid, current license issued by the department for that location.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:805 (April 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:976 (April 2012).

§7107. Licensing Requirements

A. - A.4. ...

5. Any owner/owners of a child residential facility shall provide documentation of a satisfactory criminal record check, as required by R.S. 46:51.2 and R.S. 15:587.1. A copy of the criminal background check shall be submitted for each owner of a facility with an initial application, a change of ownership (CHOW) application, a change of location (CHOL) application, and/or an application for renewal for a child residential license. No person with a criminal conviction for, or a plea of guilty or nolo contendere to, any offense included in 15:587.1, or any offense involving a juvenile victim, shall directly or indirectly own, operate, or participate in the governance of a child residential facility. In addition, an owner, or director shall not have a conviction of, or plea of guilty or nolo contender to any crime in which an act of fraud or intent to defraud is an element of the offense. The following is a listing of individuals by organizational type who are required to submit documentation of a satisfactory criminal background clearance:

a. individual ownership—individual and spouse;

b. partnership—all limited or general partners and managers as verified on the Secretary of State's website;

c. church owned, governmental entity, or university owned—any clergy and/or board member that is present in the facility during the hours of operation or when children are present;

d.i. corporation—any individual who has 25 percent or greater share in the business or any individual with less than a 25 percent share in the business and performs one or more of the following functions:

(a). has unsupervised access to the children in care at the facility;

(b). is present in the facility during hours of operation;

(c). makes decisions regarding the day-to-day operations of the facility;

(d). hires and/or fires child care staff including the director;

(e). oversees child residential staff and/or conducts personnel evaluations of the child care staff; and/or

(f). writes the facility's policies and procedures.

ii. If an owner has less than a 25 percent share in the business and does not perform one or more of the functions listed above a signed, notarized attestation form is required in lieu of a criminal background clearance. This attestation form is a signed statement from each owner acknowledging that he/she has less than a 25 percent share in the business and that he/she does not perform one or more of the aforementioned functions as an owner.

6. Providers and child care staff shall not permit an individual convicted of a sex offense as defined in R.S. 15:541 to have physical access to a child residential facility as defined in R.S. 46:1403.

7. The owner or director of a child residential facility shall be required to call and notify law enforcement personnel and the Licensing Section management staff if they have knowledge that a registered sex offender is on the premises of the child residential facility. The verbal report shall be followed by a written report to the Licensing Section within 24 hours. The owner or director of a child residential facility shall be required to call and notify law enforcement personnel if they have knowledge that a registered sex offender is within 1,000 feet of the child day care facility as required by R.S 14:91.1.

B. - B.1.q. ...

r. a floor sketch or drawing of the premises to be licensed;

s. any other documentation or information required by the department for licensure; and

t. any owner/owners of a child residential facility shall provide documentation of a satisfactory criminal record check, as required by R.S. 46:51.2 and 15:587.1.

B.2. - E.2.c. ...

d. copy of proof of current general liability and property insurance for facility;

e. copy of proof of insurance for vehicle(s); and

f. copy of a criminal background clearance for all owners as required by R.S. 46:51.2 and 15.587.1.

3. - 6. ...

7. If it is determined that all areas of noncompliance or deficiencies have not been corrected prior to the expiration date of the extension, the department may revoke the license.

F. - G.2.e. ...

f. failure to timely submit an application for renewal or to timely pay required fees;

g. operating any unlicensed facility and/or program;

h. permit an individual with a justified (valid) finding of child/abuse neglect to be on the premises without being directly supervised by another paid employee of the facility, who has not disclosed that their name appears with a justified (valid) finding on the state central registry prior to a determination by the Risk Evaluation Panel or Division of Administrative Law that the individual does not pose a risk to children; or to knowingly permit an individual who has not disclosed that their name appears with a justified (valid) finding on the state central registry to be on the premises at any time, whether supervised or not supervised;

i. permit an individual, whether supervised or not supervised to be on the child residential premises with a ruling by the Risk Evaluation Panel that the individual poses a risk to children and the individual has not requested an appeal hearing by the or nolo contendere to, any offense included in R.S. 15:587.1, R.S. 14:2, R.S. 15:541, or any offense involving a juvenile victim;

j. have a criminal background, as evidenced by the employment or ownership or continued employment or ownership of or by any individual (paid or unpaid staff) who has been convicted of, or pled guilty or nolo contendere to, any offense included in R.S. 15:587.1, or to any offense involving a juvenile victim;

k. own a child residential business and have been convicted of or have pled guilty or nolo contender to any crime in which an act of fraud or intent to defraud is an element of the offense;

l. have knowledge that a convicted sex offender is on the premises of the child care facility and fail to notify law enforcement and licensing management staff immediately upon receipt of such knowledge; or

m. have knowledge that a convicted sex offender is physically present within 1,000 feet of the child care facility and fail to notify law enforcement immediately upon receipt of such knowledge.

G.3. - K.1.d. ...

L. State Central Registry

1. All owners shall complete, sign, and date the state central registry disclosure form (SCR 1) as required by R.S. 46:1414.1. This information shall be reported prior to the individual being on the premises of the child residential facility and shall be updated annually, at any time upon the request of DCFS, and within three business days of any owner receiving notice of a justified (valid) determination of child abuse or neglect.

a. Prospective owners shall complete, sign, and date the state central registry disclosure form and submit the disclosure form to DCFS licensing. If a prospective owner discloses that his or her name is currently recorded as a perpetrator on the state central registry, DCFS shall not proceed with the licensure process. The owner shall request a risk evaluation assessment on the risk evaluation panel form (SCR 2) or shall submit a signed, dated statement that he or she will not be on the premises of the facility at any time. DCFS will resume the licensure process when the owner provides written documentation from the Risk Evaluation Panel or the Division of Administrative Law noting that they do not pose a risk to children or the statement regarding their presence at the child residential facility.

b. Within three business days of current owners receiving notice of a justified (valid) determination of child abuse and/or neglect, an updated state central registry disclosure form (SCR 1) shall be completed by the owner as required by R.S. 46:1414.1 and submitted to the Licensing Section management staff. The owner will have 10 calendar days from completion of the state central registry disclosure form to request a risk assessment evaluation in accordance with LAC 67:I.305. If on-site at the facility and immediately upon the knowledge that a justified (valid) finding has been issued by DCFS, the owner shall be directly supervised by a paid staff (employee) of the facility, who has not disclosed that their name appears with a justified (valid) finding on the state central registry. Under no circumstances may the owner with the justified finding be left alone and unsupervised with the children pending the disposition of the Risk Evaluation Panel or the Division of Administrative Law. If not on site at the child residential facility, owner shall submit a signed, dated statement that he or she will not be on the premises of the facility at any time.

i. If the Risk Evaluation Panel finds the owner does pose a risk to children and the individual chooses not to appeal the finding, the owner shall not be on the child residential premises at any time.

ii. If the Risk Evaluation Panel finds the owner does pose a risk to children and the individual appeals the finding to the Division of Administrative Law within the required timeframe, the owner shall continue to be under direct supervision at all times by a paid staff (employee) of

the facility who has not disclosed that they have a justified finding on the state central registry until a ruling is made by the Division of Administrative Law that they do not pose a risk to children. Supervision may end upon receipt of the ruling from the Division of Administrative Law that the owner does not pose a risk to children.

iii. If the Division of Administrative Law upholds the Risk Evaluation Panel finding that the individual does pose a risk to children, the owner shall not be on the child residential premises at any time.

2. State central registry disclosure forms, documentation of any disposition of the Risk Evaluation Panel and, when applicable, the Division of Administrative Law ruling shall be maintained in accordance with current DCFS licensing requirements and shall be available for review by DCFS personnel during the facility's hours of operation. This information shall be kept on file for a minimum of one year from termination of the employee or volunteer from the facility.

3. Any information received or knowledge acquired that a current or prospective owner, operator, volunteer, employee, prospective volunteer, or prospective employee has falsified a state central registry disclosure form stating that they are not currently recorded as a perpetrator with a justified (valid) determination of abuse or neglect shall be reported in writing to Licensing Section management staff as soon as possible, but no later than the close of business on the next business day.

4. Any state central registry disclosure form, Risk Evaluation Panel finding, and Division of Administrative Law ruling that is maintained in a child residential facility licensing file shall be confidential and subject to the confidentiality provisions of R.S. 46:56(F) pertaining to the investigations of abuse and neglect.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477, R.S.46:1401-1424 and R.S. 46:1414.1.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 36:807 (April 2010), amended LR 36:843 (April 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:977 (April 2012).

§7111. Provider Responsibilities

A. - A.2.c. ...

d. The provider that utilizes volunteers shall be responsible for the actions of the volunteers. Volunteers shall be given a copy of their job description. Volunteers shall:

i. ...

ii. have a criminal background check as required in R.S. 15:587.1 and R.S. 46:51.2 and as outlined in Section 7111.A.5.d.ii; and

iii. have a completed state central registry disclosure form prepared by the department whether or not his/her name is currently recorded on the state central registry for a justified finding of abuse or neglect and he/she is the named perpetrator as required in R.S. 46.1414.1;

(a). this information shall be reported prior to the individual being on the premises of the child residential facility and shall be updated annually, at any time upon the request of DCFS, and within three business days of any staff and/or volunteer receiving notice of a justified (valid) determination of child abuse or neglect;

(b). the prospective non-paid staff (volunteer) shall complete, sign, and date the state central registry disclosure form and submit the disclosure form to the owner or operator of the facility;

(i). if a prospective staff non-paid (volunteer) discloses that his or her name is currently recorded as a perpetrator on the state central registry, the director shall inform the applicant they will not be considered for volunteer duties at that time due to the state central registry disclosure. The director will provide the prospective volunteer with the risk evaluation panel form (SCR 2) so that a risk assessment evaluation may be requested;

(ii). individuals are eligible for volunteer services if and when they provide written documentation from the Risk Evaluation Panel or the Division of Administrative Law noting that they do not pose a risk to children;

(c). current volunteers receiving notice of a justified (valid) determination of child abuse and/or neglect shall complete an updated state central registry disclosure form (SCR 1) noting the existence of the justified (valid) determination as required by R.S. 46:1414.1. This updated SCR 1 shall be submitted to the Licensing Section management staff within three business days or upon being on the child residential premises, whichever is sooner. Volunteers will have ten calendar days from completion of the state central registry disclosure form to request a risk assessment evaluation in accordance with LAC 67:I.305 or shall be terminated immediately;

(i). if the volunteer will no longer be employed at or provide volunteer services at the facility, the provider shall submit a signed, dated statement indicating that the volunteer will not be on the premises of the facility at any time;

(ii). immediately upon the receipt of the knowledge that a justified (valid) finding has been issued by DCFS and as a condition of continued volunteer services, the staff person shall be directly supervised by a paid staff (employee) of the facility who has not disclosed that their name appears with a justified (valid) finding on the state central registry. Provider shall submit a written statement to Licensing Section management staff acknowledging that the volunteer is under continuous direct supervision by a paid staff who has not disclosed that their name appears with a justified (valid) finding on the state central registry. When these conditions are met, the non-paid staff (volunteer) may be counted in child staff ratio. Under no circumstances may the volunteer with the justified finding be left alone and unsupervised with the children pending the disposition by the Risk Evaluation Panel or the Division of Administrative Law that the staff person does not pose a risk to children;

(iii). if the Risk Evaluation Panel finds the individual does pose a risk to children and the individual chooses not to appeal the finding, the non-paid staff (volunteer) shall be terminated immediately;

(iv). if the Risk Evaluation Panel finds the individual does pose a risk to children and the individual appeals the finding to the Division of Administrative Law within the required timeframe, the non-paid staff (volunteer) shall continue to be under direct supervision at all times by another paid employee of the facility who has not disclosed that they have a justified finding on the state central registry until a ruling is made by the Division of Administrative Law

that they do not pose a risk to children. Supervision may end upon receipt of the ruling from the Division of Administrative Law that they do not pose a risk to children;

(v). if the Division of Administrative Law upholds the Risk Evaluation Panel finding that the individual does pose a risk to children, the individual shall be terminated immediately;

(d). any owner, operator, current or prospective employee, or volunteer of a child residential facility requesting licensure by DCFS and/or a child residential facility licensed by DCFS is prohibited from working in a child residential facility if the individual discloses, or information is known or received by DCFS, that the individual's name is recorded on the state central registry (SCR) as a perpetrator for a justified (valid) finding of abuse or neglect of a child, unless there is a finding by the Risk Evaluation Panel or a ruling by the Division of Administrative Law that the individual does not pose a risk to children.

2.d.iv. - 5.b. ...

c. Prior to employment, each prospective employee shall complete a state central registry disclosure form prepared by the department as required in RS 46:1414.1. This information shall be reported prior to the individual being on the premises of the child residential facility and shall be updated annually, at any time upon the request of DCFS, and within three business days of any staff receiving notice of a justified (valid) determination of child abuse or neglect.

i. The prospective paid staff (employee) shall complete, sign, and date the state central registry disclosure form and submit the disclosure form to the owner or operator of the facility.

(a). If a prospective staff (employee) discloses that his or her name is currently recorded as a perpetrator on the state central registry, the director shall inform the applicant they will not be considered for employment at that time due to the state central registry disclosure. The director will provide the prospective employee with the risk evaluation panel form (SCR 2) so that a risk assessment evaluation may be requested.

(b). Individuals are not eligible for employment unless and until they provide written documentation from the Risk Evaluation Panel or the Division of Administrative Law expressly stating that they do not pose a risk to children.

ii. Current staff receiving notice of a justified (valid) determination of child abuse and/or neglect shall complete an updated state central registry disclosure form (SCR 1) noting the existence of the justified (valid) determination as required by R.S. 46:1414.1. This updated SCR 1 shall be submitted to the Licensing Section management staff within three business days or upon being on the child residential premises, whichever is sooner. Staff will have ten calendar days from completion of the state central registry disclosure form to request a risk assessment evaluation in accordance with LAC 67:I.305 or shall be terminated immediately.

(a). If the staff person will no longer be employed at the facility, the provider shall submit a signed, dated statement indicating that the staff will not be on the premises of the facility at any time.

(b). Immediately upon the receipt of the knowledge that a justified (valid) finding has been issued by DCFS and as a condition of continued employment the staff person shall be directly supervised by a paid staff (employee) of the facility who has not disclosed that their name appears with a justified (valid) finding on the state central registry. Provider shall submit a written statement to Licensing Section management staff acknowledging that the staff is under continuous direct supervision by a paid staff who has not disclosed that their name appears with a justified (valid) finding on the state central registry. When these conditions are met, the staff (employee) may be counted in child staff ratio. Under no circumstances may the staff person with the justified finding be left alone and unsupervised with the children pending the disposition by the Risk Evaluation Panel or the Division of Administrative Law that the staff person does not pose a risk to children.

(c). If the Risk Evaluation Panel finds the individual does pose a risk to children and the individual chooses not to appeal the finding, the staff (employee) shall be terminated immediately.

(d). If the Risk Evaluation Panel finds the individual does pose a risk to children and the individual appeals the finding to the Division of Administrative Law within the required timeframe, the staff (employee) shall continue to be under direct supervision at all times by another paid employee of the facility who has not disclosed that they have a justified finding on the state central registry until a ruling is made by the Division of Administrative Law that they do not pose a risk to children. Supervision may end upon receipt of the ruling from the Division of Administrative Law that they do not pose a risk to children.

(e). If the Division of Administrative Law upholds the Risk Evaluation Panel finding that the individual does pose a risk to children, the individual shall be terminated immediately.

iii. Any owner, operator, current or prospective employee, or volunteer of a child residential facility requesting licensure by DCFS and/or a child residential facility licensed by DCFS is prohibited from working in a child residential facility if the individual discloses, or information is known or received by DCFS, that the individual's name is recorded on the state central registry (SCR) as a perpetrator for a justified (valid) finding of abuse or neglect of a child, unless there is a finding by the Risk Evaluation Panel or a ruling by the Division of Administrative Law that the individual does not pose a risk to children.

d. - d.i. ...

ii. No person, having any supervisory or other interaction with residents, shall be hired or on the premises of the facility until such person has submitted his or her fingerprints to the Louisiana Bureau of Criminal Identification and Information and it has been determined that such person has not been convicted of or pled nolo contendere to a crime listed in R.S. 15:587.1(C). This shall include any employee or non-employee who performs paid or unpaid work with the provider to include independent contractors, consultants, students, volunteers, trainees, or any other associated person, as defined in these rules.

A.5.d.iii. - G. ...

H. Influenza Notice to Parents

1. In accordance with R.S. 46:1428 providers shall make available to each child's parent or legal guardian information relative to the risks associated with influenza and the availability, effectiveness, known contraindications and possible side effects of the influenza immunization. This information shall include the causes and symptoms of influenza, the means by which influenza is spread, the places a parent or legal guardian may obtain additional information and where a child may be immunized against influenza. The information shall be updated annually if new information on the disease is available. The information shall be provided annually to each licensed facility by the Department of Children and Family Services and shall be made available to parents or legal guardians prior to November 1 of each year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:811 (April 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:979 (April 2012).

Ruth Johnson
Secretary

1204#084

RULE

Department of Children and Family Services
Division of Programs
Licensing Section

Emergency Preparedness and Evacuation Planning
(LAC 67:III.Chapter 73)

In accordance with provisions of the Administrative Procedure Act R.S. 49:953(A), the Department of Children and Family Services (DCFS), Division of Programs, Licensing Section has amended LAC 67:III.Chapter 73, Day Care Centers, Subchapter A, Licensing Class "A" Regulations for Child Care Centers and Subchapter B, Licensing Class "B" Regulations for Child Care Centers.

In order to protect children in child care facilities licensed by DCFS, Section 7328 has been added to Chapter 73, Subchapter A, and Section 7378 to Subchapter B as emergency preparedness and evacuation planning regulations. These regulations provide specific standards for written multi-hazard plans for child care providers which include shelter in place, lock down situations, and evacuations with regard to natural disasters, man-made disasters, and attacks while children are in care. Sections 7312, 7327, 7365, and 7373, have been amended to remove references to emergency procedures as they will be addressed in the above added Sections.

The department finds this amendment necessary to prevent a threat to the health, safety, and welfare of children in licensed care in the event of any emergency. This Rule was made active by an Emergency Rule effective December 1, 2011.

Title 67
SOCIAL SERVICES
Part III. Economic Stability and Self-Sufficiency
Subpart 21. Child Care Licensing
Chapter 73. Day Care Centers
Subchapter A. Licensing Class "A" Regulations for Child Care Centers

§7312. Staff Development and Training

A. - E.7. ...

F. - F. Note. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:1114 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2763 (December 2007), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:981 (April 2012).

§7327. Safety Requirements

A. - N. ...

O. The entire center shall be checked after the last child departs to ensure that no child is left unattended at the center. Documentation shall include date, time, and signature of staff conducting the visual check.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:1119 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2767 (December 2007), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:981 (April 2012).

§7328. Emergency Preparedness and Evacuation Planning

A. The director, in consultation with appropriate state or local authorities, shall establish and follow a written multi-hazard emergency and evacuation plan to protect children in the event of an emergency. The plan shall include shelter in place, lock down situations, and evacuations with regard to natural disasters, man-made disasters, and attacks while children are in care. The plan shall be appropriate for the area in which the center is located and address any potential disaster due to that particular location. At a minimum, the plan shall be reviewed annually by the director for accuracy and updated as changes occur. Documentation of review by the director shall consist of the director's signature and date. The plan shall be reviewed with all staff at least twice per calendar year. Documentation evidencing that the plan has been reviewed with all staff shall include staff signatures and date reviewed. The plan shall also include information regarding handling children with special needs enrolled in the child care center as well as instructions for handling infants through children age two. The plan shall specifically

address the evacuation and transportation of children in wheelchairs. The plan shall include but shall not be limited to a system to account for all children whether sheltering in place, locking down, or evacuating to a pre-determined relocation site. The plan shall include a system and back up system to notify the parents or authorized third party release caretakers of children in attendance at the childcare center of the emergency situation. The plan shall include a system to reunify children and parents following an emergency. Parents shall be informed of the details of this emergency plan at the time of enrollment.

B. The multi-hazard emergency and evacuation plan shall include lock down procedures for situations that may result in harm to persons inside the child care center, including but not limited to a shooting, hostage incident, intruder, trespassing, disturbance, or any situation deemed harmful at the discretion of the director or public safety personnel. The director shall announce the "lock down" over the public address system or other designated system. The alert may be made using a pre-selected code word. In a "lock down" situation, all children shall be kept in classrooms or other designated safe locations that are away from the danger. Staff members shall account for children and ensure that no one leaves the classroom/safe area. Staff shall secure center entrances and ensure that no unauthorized individual leaves or enters the center.

1. Staff and children shall remain in the classroom/safe area, locking the classroom door, turning off the lights, and covering the windows. Staff shall encourage children to get under tables, behind cabinets, etc., and, if possible, engage in quiet story time activities with the children until "all clear" is announced.

2. Parent or authorized representative shall be notified of a "lock down" situation at the center no later than at the time of the child's release on the date of the occurrence.

C. An individualized emergency plan (including medical contact information and additional supplies/equipment needed) shall be in place for each child with special needs.

D. If evacuation of the center is necessary, provider shall have an evacuation pack and all staff shall know the location of the pack. The contents shall be replenished as needed. At a minimum, the pack shall contain the following:

1. list of area emergency phone numbers;
2. list of emergency contact information and emergency medical authorization for all children enrolled;
3. written authorization signed and dated by the parent noting the first and last names of individuals to whom the child may be released other than the parent(s);
4. first aid kit;
5. hand sanitizer;
6. wet wipes;
7. tissue;
8. diapers for children enrolled who are not yet potty trained;
9. plastic bags;
10. battery powered flashlight;
11. battery powered radio;
12. batteries;
13. food for all ages of children enrolled, including infant food and formula;
14. disposable cups; and
15. bottled water.

E. Provider shall maintain a copy of all records, documents, and computer files necessary for the continued operation of the center following an emergency in a portable file and/or offsite location.

F. If the center is located within a ten-mile radius of a nuclear power plant or research center, the center shall also have plans for nuclear evacuation.

G.1. Fire drills shall be conducted at least once per month. Drills shall be conducted at various times of the day to include all children (children attending on certain days only and/or at certain times only) and shall be documented. Documentation shall include:

a. date and time of drill;
b. number of children present;
c. amount of time to evacuate the center;
d. problems noted during drill and corrections noted; and
e. signatures (not initials) of all staff present.

2. The Licensing Section recommends that at least one fire drill every six months be held at rest time.

H. Tornado drills shall be conducted at least once per month in the months of March, April, May, and June. Drills shall be conducted at various times of the day to include all children (children attending on certain days only and/or at certain times only) and shall be documented. Documentation shall include:

1. date and time of drill;
2. number of children present;
3. problems noted during drill and corrections noted; and
4. signatures (not initials) of all staff present.

NOTE: For additional information contact the Office of Emergency Preparedness (Civil Defense) in your area.

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

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:981 (April 2012).

Subchapter B. Licensing Class "B" Regulations for Child Care Centers

§7365. Center Staff

A. - D.6. ...

7. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:1639 (August 2000), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2774 (December 2007), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:982 (April 2012).

§7373. Physical Plant and Equipment

A. - B.9. ...

C. Safety Regulations

1. Drugs, poisons, harmful chemicals, all products labeled "Keep out of the reach of children," equipment and tools shall be locked away from the children. Whether a cabinet or an entire room, the storage area must be locked.

2. Refrigerated medications shall be in a secure container to prevent access by children and avoid contamination of food.

3. Secure railings shall be provided for:
   a. flights of more than three steps;
   b. porches more than 3 feet from the ground.

4. Gates shall be provided at the head or foot of each flight of stairs to which children have access.

5. Accordion gates are prohibited.

6. First aid supplies shall be available at the day care center. (Suggestions for first aid supplies may be obtained from the Red Cross.)

7. The center and yard must be clean and free from hazards.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:1641 (August 2000), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2776 (December 2007), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:982 (April 2012).

§7378. Emergency Preparedness and Evacuation Planning

A. The director, in consultation with appropriate state or local authorities, shall establish and follow a written multi-hazard emergency and evacuation plan to protect children in the event of an emergency. The plan shall include shelter in place, lock down situations, and evacuations with regard to natural disasters, man-made disasters, and attacks while children are in care. The plan shall be appropriate for the area in which the center is located and address any potential disaster due to that particular location. At a minimum, the plan shall be reviewed annually by the director for accuracy and updated as changes occur. Documentation of review by the director shall consist of the director's signature and date. The plan shall be reviewed with all staff at least twice per calendar year. Documentation evidencing that the plan has been reviewed with all staff shall include staff signatures and date reviewed. The plan shall also include information regarding handling children with special needs enrolled in the child care center as well as instructions for handling infants through children age two. The plan shall specifically address the evacuation and transportation of children in wheelchairs. The plan shall include but shall not be limited to a system to account for all children whether sheltering in place, locking down, or evacuating to a pre-determined relocation site. The plan shall include a system and back up system to notify the parents or authorized third party release caretakers of children in attendance at the childcare center of the emergency situation. The plan shall include a system to reunify children and parents following an emergency. Parents shall be informed of the details of this emergency plan at the time of enrollment.

B. The multi-hazard emergency and evacuation plan shall include lock down procedures for situations that may result in harm to persons inside the child care center, including but not limited to a shooting, hostage incident, intruder, trespassing, disturbance, or any situation deemed harmful at the discretion of the director or public safety personnel. The director shall announce the "lock down" over the public address system or other designated system. The alert may be made using a pre-selected code word. In a "lock down" situation, all children shall be kept in classrooms or other designated safe locations that are away from the danger. Staff members shall account for children and ensure that no one leaves the classroom/safe area. Staff shall secure center entrances and ensure that no unauthorized individual leaves or enters the center.

1. Staff and children shall remain in the classroom/safe area, locking the classroom door, turning off the lights, and covering the windows. Staff shall encourage children to get under tables, behind cabinets, etc., and, if possible, engage in quiet story time activities with the children until "all clear" is announced.

2. Parent or authorized representative shall be notified of a "lock down" situation at the center no later than at the time of the child's release on the date of the occurrence.

C. An individualized emergency plan (including medical contact information and additional supplies/equipment needed) shall be in place for each child with special needs.

D. If evacuation of the center is necessary, provider shall have an evacuation pack and all staff shall know the location of the pack. The contents shall be replenished as needed. At a minimum, the pack shall contain the following:

1. list of area emergency phone numbers;
2. list of emergency contact information and emergency medical authorization for all children enrolled;
3. written authorization signed and dated by the parent noting the first and last names of individuals to whom the child may be released other than the parent(s);
4. first aid kit;
5. hand sanitizer;
6. wet wipes;
7. tissue;
8. diapers for children enrolled who are not yet potty trained;
9. plastic bags;
10. battery powered flashlight;
11. battery powered radio;
12. batteries;
13. food for all ages of children enrolled, including infant food and formula;
14. disposable cups; and
15. bottled water.

E. Provider shall maintain a copy of all records, documents, and computer files necessary for the continued operation of the center following an emergency in a portable file and/or offsite location.

F. If the center is located within a ten-mile radius of a nuclear power plant or research center, the center shall also have plans for nuclear evacuation.

G.1. Fire drills shall be conducted at least once per month. Drills shall be conducted at various times of the day to include all children (children attending on certain days only and/or at certain times only) and shall be documented. Documentation shall include:
   a. date and time of drill;
   b. number of children present;
   c. amount of time to evacuate the center;
   d. problems noted during drill and corrections noted; and
   e. signatures (not initials) of all staff present.

2. The Licensing Section recommends that at least one fire drill every six months be held at rest time.

H. Tornado drills shall be conducted at least once per month in the months of March, April, May, and June. Drills shall be conducted at various times of the day to include all children (children attending on certain days only and/or at certain times only) and shall be documented. Documentation shall include:

1. date and time of drill;
2. number of children present;
3. problems noted during drill and corrections noted; and
4. signatures (not initials) of all staff present.

NOTE: For additional information contact the Office of Emergency Preparedness (Civil Defense) in your area.

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

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:983 (April 2012).

Ruth Johnson
Secretary

1204#085

RULE

Department of Children and Family Services
Division of Programs
Licensing Section

Service Delivery Model Monitoring and Review Guidelines
(LAC 67:V.7107, 7111, 7113, 7115, 7117, 7119, and 7313)

In accordance with provisions of the Administrative Procedure Act R.S. 49:953(A), the Department of Children and Family Services (DCFS), Division of Programs, Licensing Section has amended LAC 67: V, Subpart 8, Chapter 71, Child Residential Care and Chapter 73, Child Placing Agencies. Regulations in these Chapters have been amended to comply with Executive Order Number BJ 2011-5 which establishes a service delivery model to provide effective community based services through the creation of partnerships with public and private providers of services that target children, youth and their families, in a multi-agency, multi-disciplinary system of services.

DCFS has amended Chapter 71, Sections 7107, 7111, 7113, 7115, 7117, and 7119 and Chapter 73, Section 7313. The existing regulations have been amended to clarify guidelines for child residential facility and child placing agency providers to review and monitor the service delivery model for the treatment of children and youth with significant behavioral health challenges or co-occurring disorders.

Title 67
SOCIAL SERVICES
Part V. Child Welfare
Subpart 8. Residential Licensing

Chapter 71. Child Residential Care

§7107. Licensing Requirements

A. - I.1.a. ...

b. The program director or owner may appeal this decision by submitting a written request with the reasons to the Secretary, Department of Children and Family Services, Bureau of Appeals, P.O. Box 2994, Baton Rouge, LA 70821-9118. This written request shall be postmarked within 15 days of the receipt of the notification in §7107.H.1 above.

I.1.c. - J.6. ...

K. Posting of Notices of Revocation

1. The notice of revocation of the license shall be prominently posted.

a. The Department of Children and Family Services shall prominently post a notice of revocation action at each public entrance of the child residential care facility within one business day of such action. This notice must remain visible to the general public, other placing agencies, parents, guardians, and other interested parties of children who attend the child care facility.

b. - d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477, R.S.46:1401-1424 and R.S. 46:1414.1.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 36:807 (April 2010), amended LR 36:843 (April 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:984 (April 2012).

§7111. Provider Responsibilities

A. - A.3.a.iii. ...

b. Service Plan Manager—the service plan manager shall have a bachelor's degree in a human service field plus a minimum of one year with the relevant population.

3.c. - 4.b.iii. ...

iv. reviewing quarterly service plan reviews for the successes and failures of the resident's program, including the resident's educational program, with recommendations for any modifications deemed necessary. Designated staff may prepare these reports, but the service plan manager shall also review the reports;

v. ...

vi. monitoring that the resident receives a periodic review and review of the need for residential placement and ensuring the timely release, whenever appropriate, of the resident to a least restrictive setting; monitoring any extraordinary restriction of the resident's freedom including use of any form of restraint, any special restriction on a resident's communication with others and any behavior management plan;

vii. - viii.(c). ...

(d). help the family to develop constructive and personally meaningful ways to support the resident's experience in the facility, through assistance with challenges associated with changes in family structure and functioning, and referral to specific services, as appropriate;

(e). - (f). ...

(g). monitor that all residents receive timely evaluations for specialized services and timely receipt of those specialized services identified.

A.4.c. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:811 (April 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:984 (April 2012).

§7113. Admission and Discharge

A. - A.2.a.ii.(i). ...

3. Admission Assessment

a. An admission assessment shall be completed or obtained within three business days of admission to determine the service needs and preferences of the resident. This assessment shall be maintained in the resident's record. Information gathered from this assessment shall be used to develop a service plan for the resident. Information gathered during the pre-screening assessment that is applicable can be used for the admission assessment and shall include the following:

i. - vi. ...

b. Within 30 days of admission, the provider shall evaluate or obtain the following information:

A.3.b.i. - B.1.d. ...

2. Within 30 days of admission, the provider shall have documentation that a resident has an individual service plan developed that will be comprehensive, time limited, goal oriented and address the needs of the resident. The service plan shall include the following components:

a. - l. ...

3. The service plan shall be developed by a team including, but not limited to, the following:

B.3.a. - C.2. ...

3. When a resident is discharged, the provider shall compile or obtain a complete written discharge summary within 30 days of discharge. The discharge summary is to be kept in the resident's record and shall include:

a. - f. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community service, LR 36:818 (April 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:984 (April 2012).

§7115. Resident Protection

A. - C.2.h. ...

3. The provider shall obtain or develop, with the participation of the resident and his/her legal guardian or family, an individualized behavior support plan for each resident receiving service. Information gathered from the pre-admission assessment and the admission assessment will be used to develop the plan. The plan shall include, at a minimum, the following:

C.3.a. - E.4.b. ...

5. The specific maximum duration of the use of personal restraints as noted in Section 7115.E.4 may be exceeded only if prior to the end of the time period, a written continuation order noting clinical justification is obtained from a licensed psychiatrist, psychologist, or physician. The maximum time for use of personal restraints shall be 12 hours.

E.6. - F.3.b. ...

4. The specific maximum duration of the use of seclusion as noted in Section 7115.F.3 may be exceeded only if prior to the end of the time period, a written continuation order noting clinical justification is obtained from a licensed psychiatrist, psychologist, or physician. The maximum time for use of seclusion shall be 12 hours.

F.5. - G.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community service, LR 36:818 (April 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:985 (April 2012).

§7117. Provider Services

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

5. Condiments appropriate for the ordered diet will be available.

C.6. - D.5.k. ...

6. Professional and Specialized Services

a. The provider shall monitor that residents receive specialized services to meet their needs; these services shall include but are not limited to:

i. - vi. ...

b. The provider shall monitor that all providers of professional and special services:

i. - v. ...

c. The provider shall monitor that any provider of professional or special services (internal or external to the facility) meets the criteria noted below:

D.6.c.i. - F.10.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community service, LR 36:818 (April 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:985 (April 2012).

§7119. Physical Environment

A. - B.4. ...

C. Dining Areas

1. The provider shall have dining areas that permit residents, staff and guests to eat together and create a homelike environment.

C.2. - H. ...

I. Administrative and Discussion Space

1. ...

2. The provider shall have a designated space to allow private discussions between individual residents and staff.

I.3. - N.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community service, LR 36:818 (April 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:985 (April 2012).

Chapter 73. Child Placing Agencies – General Provisions

§7313. Foster Care Services

A. - B.5.f. ...

g. The foster home parent(s) shall complete a minimum of 20 hours of annual training.

i. Ten hours of the twenty of on-going training per year may be met by professional therapeutic consultation or medical training aimed to assist in parenting a child placed or being placed with verification provided by the consultant or trainer.

ii. For two-parent specialized homes, the total training hours may be combined to satisfy the total required hours, as long as the primary caretaker receives 12 of the total required hours and the other parent receives eight of the total required hours.

6. - 6.f. ...

g. The foster home parent(s) shall complete a minimum of 24 hours of annual training.

i. Fourteen hours of the twenty-four of on-going training per year may be met by professional therapeutic consultation or medical training aimed to assist in parenting a child placed or being placed.

ii. For two-parent therapeutic foster care homes, the total training hours may be combined to satisfy the total minimum required hours, as long as the primary caretaker receives 16 of the total required hours and the other parent receives eight of the total required hours.

B.6.h. - C.2.b.ix. ...

3. Service Plan

a. The provider shall:

i. within 30 days of a child's placement, develop or obtain:

3.a.i.(a). - 5.b.vii. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and ACT 64 of the 2010 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:833 (March 2011), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:985 (April 2012).

Ruth Johnson
Secretary

1204#083

RULE

Department of Economic Development
Office of the Secretary
Office of Business Development
and
Louisiana Economic Development Corporation

Louisiana Seed Capital Program (LSCP) and Seed Capital Program for the State Small Business Credit Initiative (SSBCI) Program (LAC 19:VII.Chapters 77 and 87)

Editor's Note: This Rule was printed in error in the March 20, 2012 edition of the *Louisiana Register* on pages 734-740. The effective date of this Rule is April 20, 2012.

The Louisiana Department of Economic Development, Office of the Secretary, Office of Business Development, and the Louisiana Economic Development Corporation, pursuant to the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and as authorized by R.S. 36:104, 36:108, 51:2302, and 51:2312, hereby amend, supplement, expand and re-adopt the rules of the Louisiana Seed Capital Program (LSCP), LAC Title 19, Part VII, Subpart 11, Chapter 77, and to adopt new rules for the Seed Capital Program for the State Small Business Credit Initiative (SSBCI) Program, LAC 19:VII.Chapter 87.

These amendments supplement and expand certain provisions of and to readopt the rules regarding the Louisiana Seed Capital Program (LSCP) and to create the Seed Capital Program for the State Small Business Credit Initiative (SSBCI) Program pursuant to the State Small Business Credit Initiative Act of 2010 (Title III of the Small Business Jobs Act of 2010, Public law 111-240, 124 Stat. 2568, 2582) adopted by the U.S. Congress. The amendments to the rules supplement, expand and update some of the definitions and other provisions in the rules of the existing program, and new rules are being adopted since no rules currently exist for the new program. These programs will promote economic development in Louisiana, will encourage the formation of Louisiana-based venture capital funds intended to provide investment capital to create and grow start-up and early-stage Louisiana businesses. These programs will be investing in other venture capital funds that in turn invest seed capital in individual Louisiana businesses. This new program will utilize SSBCI funds to make seed-stage investments to create and grow start-up and early-stage businesses or for expansion of small businesses statewide, and to reach, identify and promote small business growth in low and moderate income communities, in minority communities, in other underserved communities, and to women- and minority-owned businesses. These programs will stimulate the flow of capital and other financial assistance for the sound financing of the development, expansion, and retention of business concerns in Louisiana; will help small businesses grow and expand their businesses; and will provide higher levels of employment, income growth, and expanded economic opportunities in all areas of our state. These programs will further help secure the creation or retention of jobs created by businesses in Louisiana that require state assistance in order to start, maintain or expand their operations, and/or increase their capital investment in Louisiana. These programs will help to prevent the loss of business investment in this state and the loss of economic development projects that will create economic growth in Louisiana, thereby creating or retaining jobs that would improve the standard of living and enrich the quality of life for citizens of this state.

Title 19
CORPORATIONS AND BUSINESS
Part VII. Louisiana Economic Development Corporation
Subpart 11. Louisiana Seed Capital Program (LSCP)
Chapter 77. Louisiana Seed Capital Program (LSCP)
§7701. Purpose

A. The purpose of this Louisiana Economic Development Corporation (LEDC) program is to encourage the formation of Louisiana-based seed capital funds (venture capital funds for start-up and early-stage businesses). This program is intended to provide investment capital to create and grow start-up and early-stage businesses. This program will be investing in other venture capital funds that in turn invest seed capital in individual Louisiana businesses. Funding under this program shall be limited to those qualified organizations who agree to invest such funds exclusively in companies based in Louisiana for the purpose of financing any business purpose or process, technique, product, or device which is or may be exploitable commercially, which has advanced beyond the theoretical state, and which is capable of being or has been reduced to practice without regard to whether a patent has or could be granted. This program is not intended for retail or professional services.

B. The LEDC will make the decision as to whether it will invest in the venture capital fund; and the venture capital fund will make the investment decision in eligible individual businesses.

C. The LEDC will provide high-level monitoring of aggregate performance of its portfolio, with monitoring of a small amount of data on each venture capital fund investment; and the venture capital fund will actively monitor each individual business investment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Louisiana Economic Development Corporation, LR 26:2251 (October 2000), amended by the Department of Economic Development, Office of the Secretary, Office of Business Development and Louisiana Economic Development Corporation, LR 38:986 (April 2012).

§7703. Definitions

Board—Board of Directors of Louisiana Economic Development Corporation.

Co-Investment—an investment in which financial investors take part with each other and act jointly by uniting or combining together.

Corporation—Louisiana Economic Development Corporation.

LED—Louisiana Department of Economic Development.

LEDC—Louisiana Economic Development Corporation.

Match Investment—an investment in which a financial investor provides or combines additional funds to equal, meet or complement funds provided by another investor or other investors.

Seed Capital (for the purposes of this program)—

1. a dollar amount of not less than $25,000 of capital provided to an inventor or entrepreneur to prove a concept and to qualify for start-up capital, which may involve product development and market research, as well as building a management team and developing a business plan, if the initial steps are successful;

2. research and development financing to finance product development for start-up as well as early-stage companies (which may include a company that may already be in business for three years or less);

3. start-up or early-stage financing to companies completing product development and initial marketing which companies may be in the process of organizing or they may already be in business for three years or less, but have sold their product commercially; or

4. first-stage or early-stage financing to companies that have expended their initial capital and require funds to initiate full-scale manufacturing and sales, for costs of inventory, equipment, expansion, modernization, and for working capital purposes.

Venture Capital Fund—also referred to herein as a *seed capital fund*, or the *applicant organization;* a fund that makes and manages a portfolio of investments in individual companies or businesses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Louisiana Economic Development Corporation, LR 26:2251 (October 2000), amended by the Department of Economic Development, Office of the Secretary, Office of Business Development and Louisiana Economic Development Corporation, LR 38:987 (April 2012).

§7705. Eligibility for Participation in This Program

A. The applicant organization must be a Louisiana-based venture capital fund organized for the purpose of making seed capital investments in Louisiana businesses.

B. The applicant organization may be organized either for profit or non-profit purposes.

C. The applicant organization must demonstrate that its management personnel have at least three years of experience in managing investments in individual, privately-held companies, utilizing funds provided by others to make such investments.

D. The applicant organization must have a minimum cash investment already on hand sufficient to cover the general and administrative costs for the first and early years of its operations.

E. The applicant organization must have already raised a minimum of $250,000 to be eligible for co-investments or raised a minimum of $500,000 to be eligible for a match investment; and must have already on hand cash sums sufficient to cover the general and administrative costs for the first and early years of its operations for participation in this program. The minimum funds may be in cash and commitments.

F. The applicant organization must verify the eligibility of portfolio companies, obtain assurances of eligibility from each business, and assurances from each business that proceeds will be used for acceptable business purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Louisiana Economic Development Corporation, LR 26:2251 (October 2000), amended by the Department of Economic Development, Office of the Secretary, Office of Business Development and Louisiana Economic Development Corporation, LR 38:987 (April 2012).

§7707. Application Requirements for Qualification or Eligibility, and for Co-Investment

A. Prior to a seed capital fund submitting a request to the Louisiana Economic Development Corporation (LEDC) to be considered for a commitment for a co-investment, a prospective seed capital fund must first submit an application for the applicant fund to be considered qualified or eligible to participate in this program. The application for the fund's qualification or eligibility to the LEDC shall consist of detailed information covering two main categories, including:

1. the experience and qualifications of the fund's existing or proposed management team; and

2. the business plan for the seed capital fund. The following provisions specify in more detail the information that should be covered. While these provisions provide a possible format, the applicant should in no way feel bound by this format. The applicant can use its own format, as long as the basic information is provided. Moreover, the applicant should feel free to provide additional information which is viewed as relevant. The LEDC or its staff may request additional information beyond that which is specified below and what is provided by the applicant.

B. After its receipt and review by the LEDC staff, the completed application for qualification will then be submitted to the next scheduled LEDC board screening

committee or other board designated committee meeting for recommendations. The recommendations of the committee will be submitted to the full Board of Directors of LEDC at its next scheduled meeting for its consideration of final approval.

C. Experience and Qualifications. In or with its application, the applicant shall:

1. submit résumés, references, and private placement memoranda for all principal members of the management team that are identified;

NOTE: Louisiana Economic Development Corporation reserves the right to perform criminal background checks on any or all of the members of the management team.

2. describe the responsibilities of each of the principal members of the management team that have been identified. If any of these people are not full-time management team members, describe their other activities;

3. describe the responsibilities of any principal management position for which a person has not been identified;

4. specify any directors that have been identified, and submit their resumes;

5. specify any other key people that have been identified, including any advisors, consultants, attorneys and accountants, and submit résumés and/or descriptions of firms;

NOTE: Louisiana Economic Development Corporation reserves the right to perform criminal background checks on any or all of these key people.

6. provide evidence of the initial $250,000 minimum capital required for the applicant fund's eligibility to participate in this program.

D. Business Plan. In its application, and with regard to the subjects mentioned below, the applicant shall:

1. targeted market:

a. describe and discuss the types of businesses that the seed capital fund will finance. Discuss the extent to which the seed capital fund intends to specialize in certain industries, or whether a more broad based approach is planned;

b. describe the size range of businesses that it is contemplated the seed capital fund will finance, with a general indication of where most of the focus is expected;

c. discuss the life cycle stage or stages of the companies which the seed capital fund will likely finance, with an indication of where most of the focus is contemplated;

d. discuss the geographic area in which the seed capital fund plans to focus. Specify the city or parish in which the seed capital fund's principal office is planned to be located, and discuss intentions, if any, to establish any additional offices;

e. provide any market analysis that the applicant deems relevant;

2. financing. Describe and discuss the financing instruments that are intended to be used by the seed capital fund. Discuss the anticipated mix of the various types of financing instruments. Discuss the anticipated size range of investments to be made, and information regarding pricing, term, and other conditions. Discuss risk/return expectations on projects. Discuss methods of exit from investments;

3. marketing strategy. Describe the seed capital fund's plans and approach to marketing its services, including the identification of potential applicants for financing assistance;

4. screening process and evaluation criteria. Discuss the anticipated number of business firms that will be reviewed for possible investment, in comparison with the number that will actually be invested in. Discuss the approach to screening business firms, and the evaluation criteria for deciding whether, and under what terms and conditions, to provide investment;

5. fee income. Discuss the potential for fee income, and any plans that the seed capital fund might have for generating fee income;

6. management assistance. Discuss the plans of the seed capital fund to provide management and/or technical assistance to companies for which the seed capital fund provides investment. Discuss the seed capital fund's plans for monitoring its investments, and enforcing provisions of investment agreements. Discuss how the seed capital fund plans to handle problem investments. Discuss the seed capital fund's plans to provide management assistance to companies that the seed capital fund is not investing in;

7. complementary relationships. Discuss the nature of complementary relationships that are anticipated with banks, commercial lenders, investment bankers, venture capitalists and other institutions. This discussion can be based on general types of institutions and/or can identify specific institutions where complementary relationships have already been discussed;

8. management structure. Describe the proposed or existing management structure for the seed capital fund, and anticipated compensation for principal members of the management team;

9. idle funds. Describe plans for the management of the idle funds of the seed capital fund;

10. tax and accounting issues. Discuss relevant tax and accounting issues for the seed capital fund;

11. financial projections:

a. provide a detailed operating budget for the first three years of the seed capital fund's operation. The first year shall be month by month. The second and third years may be presented on an annual basis;

b. provide performance projections, year by year, for a five year period. These projections should show cash flow, income and expense (including taxes), and balance sheet data. For these performance projections, operating expenses can be consolidated into one line item;

c. specify the assumptions used for the performance projections. It is permissible to submit several sets of performance projections based on differing assumptions. However, if applicant submits several sets of projections based on differing assumptions, specify which set of assumptions are applicant's primary assumptions;

d. specify computer programs used for projections, and specify formulas used.

E. If the applicant fund has been found to be qualified or eligible to participate in this program by the LEDC board of directors, the application for the qualified applicant's co-investment project shall contain, but shall not be limited to, the identical information provided to the eligible seed capital fund requesting the co-investment. The LEDC or its staff may request additional information beyond that which has been provided. After its receipt and review by the LEDC staff, the completed application for the qualified applicant's co-investment project shall then be submitted to the next

scheduled LEDC board screening committee meeting or other board designated committee meeting for recommendations. The recommendations of the committee will be submitted to the full board of directors of LEDC at its next scheduled meeting for its consideration of final approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Louisiana Economic Development Corporation, LR 26:2251 (October 2000), amended by the Department of Economic Development, Office of the Secretary, Office of Business Development and Louisiana Economic Development Corporation, LR 38:987 (April 2012).

§7709. Application Requirements for Qualification or Eligibility, and for Match Investment

A. Prior to a seed capital fund submitting a request to the Louisiana Economic Development Corporation (LEDC) to be considered for a commitment for a match investment, a prospective seed capital fund shall first submit an application for the applicant fund to be considered qualified or eligible to participate in this program. The application for the fund's qualification or eligibility to the LEDC shall consist of detailed information covering three main categories, including:

1. the experience and qualifications of the Fund's existing or proposed management team;

2. if applicable, the fund's fund raising abilities, activities and success; and

3. the business plan for the seed capital fund. The following provisions specify in more detail the information that should be covered. While these provisions provide a possible format, the applicant should in no way feel bound by this format. The applicant can use its own format, as long as the basic information is provided. Moreover, the applicant should feel free to provide additional information which is viewed as relevant. The LEDC or its staff may request additional information beyond that which is specified below and what is provided by the applicant.

B. After its receipt and review by the LEDC staff, the completed application for a match investment will then be submitted to the next scheduled LEDC board screening committee meeting or other board designated committee meeting for recommendations. The recommendations of the committee will be submitted to the full board of directors of LEDC at its next scheduled meeting for its consideration of final approval.

C. Experience and Qualifications. In or with its application, the applicant shall:

1. submit resumes, references, and private placement memoranda for all principal members of the management team that are identified;

NOTE: Louisiana Economic Development Corporation reserves the right to perform criminal background checks on any or all of the members of the management team.

2. describe the responsibilities of each of the principal members of the management team that have been identified. If any of these people are not full-time management team members, describe their other activities;

3. describe the responsibilities of any principal management position for which a person has not been identified;

4. specify any directors that have been identified, and submit their resumes;

5. specify any other key people that have been identified, including any advisors, consultants, attorneys and accountants, and submit resumes and/or descriptions of firms.

NOTE: Louisiana Economic Development Corporation reserves the right to perform criminal background checks on any or all of these key people.

D. Fund Raising. In or with its application, the applicant shall:

1. specify the amount of LEDC commitment sought;

2. provide evidence of the amount of private capital that has been raised, and specify the ratio of actual cash to commitments raised;

3. describe the basic legal structure of the seed capital fund;

4. if applicable, describe and discuss the applicant's fund raising strategy for the raising of any additional private capital;

5. if applicable, specify the principal investor sources that the applicant fund will be targeting;

6. if applicable, provide the applicant's basic proposal to its prospective private investors, and the expectations and objectives the applicant is specifying. This shall include, for example, representations regarding reasonably expected returns on private equity investment, indirect financial benefits, if any, and social purposes, if applicable;

7. list all specific investors and financing commitments already obtained, including documentation for each. This shall include evidence of the initial $500,000 minimum capital required for the applicant fund's eligibility to participate in this program;

8. specify whether applicant anticipates taking in all of the LEDC equity investment at closing, or whether applicant plans a phase in. If a phase-in is planned, specify the proposed schedule. It is permissible to have different scenarios based on the actual amount of equity capital raised.

E. Business Plan. In its application, and with regard to the subjects mentioned below, the applicant shall:

1. targeted market:

a. describe and discuss the types of businesses that the seed capital fund will finance. Discuss the extent to which the seed capital fund intends to specialize in certain industries, or whether a more broad based approach is planned;

b. describe the size range of businesses that it is contemplated the seed capital fund will finance, with a general indication of where most of the focus is expected;

c. discuss the life cycle stage or stages of the companies which the seed capital fund will likely finance, with an indication of where most of the focus is contemplated;

d. discuss the geographic area in which the seed capital fund plans to focus. Specify the city or parish in which the seed capital fund's principal office is planned to be located, and discuss intentions, if any, to establish any additional offices;

e. provide any market analysis that the applicant deems relevant;

2. financing. Describe and discuss the financing instruments that are intended to be used by the seed capital fund. Discuss the anticipated mix of the various types of financing instruments. Discuss the anticipated size range of

investments to be made, and information regarding pricing, term, and other conditions. Discuss risk/return expectations on projects. Discuss methods of exit from investments;

3. marketing strategy. Describe the seed capital fund's plans and approach to marketing its services, including the identification of potential applicants for financing assistance;

4. screening process and evaluation criteria. Discuss the anticipated number of business firms that will be reviewed for possible investment, in comparison with the number that will actually be invested in. Discuss the approach to screening business firms, and the evaluation criteria for deciding whether, and under what terms and conditions, to provide investment;

5. fee income. Discuss the potential for fee income, and any plans that the seed capital fund might have for generating fee income;

6. management assistance. Discuss the plans of the seed capital fund to provide management and/or technical assistance to companies for which the seed capital fund provides investment. Discuss the seed capital fund's plans for monitoring its investments, and enforcing provisions of investment agreements. Discuss how the seed capital fund plans to handle problem investments. Discuss the seed capital fund's plans to provide management assistance to companies that the seed capital fund is not investing in;

7. complementary relationships. Discuss the nature of complementary relationships that are anticipated with banks, commercial lenders, investment bankers, venture capitalist and other institutions. This discussion can be based on general types of institutions and/or can identify specific institutions where complementary relationships have already been discussed;

8. management structure. Describe the proposed or existing management structure for the seed capital fund, and anticipated compensation for principal members of the management team;

9. idle funds. Describe plans for the management of the idle funds of the seed capital fund;

10. tax and accounting issues. Discuss relevant tax and accounting issues for the seed capital fund;

11. financial projections:

a. provide a detailed operating budget for the first or for the next three years of the seed capital fund's operation. The first year shall be month by month. The second and third years may be presented on an annual basis;

b. provide performance projections, year by year, for a five year period. These projections should show cash flow, income and expense (including taxes), and balance sheet data. For these performance projections, operating expenses can be consolidated into one line item;

c. specify the assumptions used for the performance projections. It is permissible to submit several sets of performance projections based on differing assumptions. However, if applicant submits several sets of projections based on differing assumptions, specify which set of assumptions are applicant's primary assumptions;

d. specify computer programs used for projections, and specify formulas used.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Louisiana Economic Development Corporation, LR 26:2253 (October 2000), amended by the Department of Economic Development, Office of the Secretary, Office of Business Development and Louisiana Economic Development Corporation, LR 38:989 (April 2012).

§7711. Application Process

A. All applications under this program must be submitted to the Executive Director, Louisiana Economic Development Corporation, P.O. Box 44153, Baton Rouge, 70804.

1. Application Requirements for Qualification or Eligibility to Participate in this Program and Co-Investment Application or Match Investment Application

a. The application for qualification or eligibility of the seed capital fund to participate in this program and its application for the co-investment project may be, but are not required to be, submitted simultaneously for consideration.

b. The application for qualification or eligibility of the seed capital fund to participate in this program and its application for the match investment project may be, but are not required to be, submitted simultaneously for consideration.

c. Once a seed capital fund is deemed qualified or eligible to participate in this program, the fund is not required to resubmit a qualification or an eligibility application for subsequent co-investment or match investment requests.

2. All applications received by LEDC will be reviewed by the LEDC staff; and the staff may request additional information beyond that which has been provided. After their receipt and review by the LEDC staff, the completed applications shall then be submitted to the next scheduled LEDC board screening committee meeting or other board designated committee meeting for recommendations. The recommendations of the committee will be submitted to the full board of directors of LEDC at its next scheduled meeting for its consideration of final approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Louisiana Economic Development Corporation, LR 26:2254 (October 2000), amended by the Department of Economic Development, Office of the Secretary, Office of Business Development and Louisiana Economic Development Corporation, LR 38:990 (April 2012).

§7713. Investments

A. Co-Investment

1. A qualified or eligible fund that has not received a match investment from the LEDC may apply for co-Investment funds on a case by case basis. The co-investment of LEDC shall not exceed the lesser of 50 percent of the total round of investment needed or $250,000.

2. Only investments in Louisiana businesses are eligible for co-investments.

3. Co-investments will be on the same terms and conditions as the seed capital fund has negotiated with the business included in the co-investment project.

B. Match Investment

1. A qualified or eligible fund may receive a match investment equal to $1 of LEDC funds for each $2.00 of funds privately raised by the applicant fund. The maximum LEDC match investment in an eligible fund shall not exceed $1,000,000.

2. A qualified or eligible fund shall be a Louisiana organized and based seed capital fund. For purposes of this program, *organized and based* means the seed capital applicant fund is registered with the Louisiana Secretary of State's office, and that it maintains a staffed office in Louisiana where investments may be initiated and closed.

3. Match investment funds may be used only for Louisiana businesses.

4. The method of LEDC's investment into the qualified or eligible fund will be equal to the method of investment of the other investors into that fund, i.e., committed capital for committed capital, cash investment for cash investment, or cash and commitment for cash and commitment.

5. The terms of each match investment will be negotiated by LEDC on a case by case basis.

C. Closing

1. Prior to the disbursement of funds, the secretary-treasurer of LEDC and any one of the following: either the chairman of the board, the president, or the executive director of LEDC, shall execute all necessary legal instruments after certification by legal counsel that all appropriate legal requirements have been met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Louisiana Economic Development Corporation, LR 26:2254 (October 2000), amended by the Department of Economic Development, Office of the Secretary, Office of Business Development and Louisiana Economic Development Corporation, LR 38:990 (April 2012).

§7715. Reporting

A. Each year, on the anniversary date of the initial disbursement of funds, or on such date as may be authorized by LEDC, each venture capital fund that is the recipient of LEDC funds shall provide to LEDC the following information:

1. a list of all investors in the fund, including the amounts of each investment and the nature of each investment;

2. a statement of the financial condition of the fund including, but not limited to, a balance sheet, a profit and loss statement, and a statement showing changes in the fund's financial condition;

3. a current reconciliation of the fund's net worth; and

4. an annual audited financial statement prepared by a certified public accountant (prepared within 120 days of the end of the fund's fiscal year).

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Louisiana Economic Development Corporation, LR 26:2254 (October 2000), amended by the Department of Economic Development, Office of the Secretary, Office of Business Development and Louisiana Economic Development Corporation, LR 38:991 (April 2012).

Chapter 87. Seed Capital Program for the State Small Business Credit Initiative (SSBCI) Program

§8701. Purpose

A. The purpose for this Chapter 87 Program shall be the same as the purposes previously provided in §7701 of Chapter 77 of Subpart 11 of the Louisiana Seed Capital Program which shall also apply to this Chapter 87 program; and additionally this Chapter 87 program is to establish the Louisiana Seed Capital Program for the federal program entitled the "State Small Business Credit Initiative (SSBCI) Program" and to accommodate the requirements of this federal program. The Louisiana Economic Development Corporation (LEDC) will utilize SSBCI funds to make seed stage investments to create and grow start-up and early-stage businesses or for expansion of small businesses statewide, and to reach, identify and promote small business growth in low and moderate income communities, in minority communities, in other underserved communities, and to women- and minority-owned businesses. This LEDC program and the SSBCI funding will be marketed through outreach activities to inform venture capital funds, local foundations, small businesses, trade associations, incubator associations, and economic development organizations of the program, and to generate increased small business activity, awareness of and access to additional sources of capital to start and expand existing business opportunities, as well as participation in the program. The marketing will also be used to find investment and seed investment opportunities located in the underserved markets that will be targeted with SSBCI funds. The LEDC will also monitor these plans, including the progress of individual businesses receiving investments and the performance of participating venture capital organizations, to ensure successful outcomes in the form of program utilization and eventual securing of funds for these groups. This program is not intended for retail or professional services.

B. The LEDC wishes to maintain for this Chapter 87 program all of the purposes of §7701 and all of the other Sections and provisions of Chapter 77 of the Seed Capital Program shown above, except where there is a need for the policies of this program to be different from Chapter 77. For this reason, all of the Sections and provisions of Chapter 77 above shall also apply to this Chapter 87, except in those instances where a different or additional rule or policy is provided below in this Chapter 87.

AUTHORITY NOTE: Promulgated in accordance with LA. R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Office of Business Development and Louisiana Economic Development Corporation, LR 38:991 (April 2012).

§8703. Definitions

A. All of the same definitions provided in §7703 of Chapter 77 of the Seed Capital Program shall also apply to this Chapter 87 program.

AUTHORITY NOTE: Promulgated in accordance with LA. R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Office of Business Development and Louisiana Economic Development Corporation, LR 38:991 (April 2012).

§8705. Eligibility for Participation in This Program

A. Except as may be hereinafter provided, all of the eligibility provisions contained in §7705 of Chapter 77 of the Seed Capital Program shall also apply to this Chapter 87 Program, except that co-investments will not be utilized in this Chapter 87 program.

B. The applicant organization must have raised a minimum of $500,000 in investments or has a minimum of $2 1/2 million under management, and already on hand cash

sums sufficient to cover the general and administrative costs for the first and early years of its operations for participation in the SSBCI Match Investment Program.

C. In addition to the eligibility provisions provided in the Section mentioned in the above Subsection A, LEDC investments made in venture capital funds and programs in connection with this Chapter 87 program shall meet the following criteria:

1. the venture capital fund(s) shall target an average business-size of 500 employees or less at the time the individual business investment is made;

2. such individual business investments shall not be extended to businesses with more than 750 employees;

3. any investment targeted in this program shall not exceed the amount of $ 5,000,000; and

4. any investment extended through this program shall not exceed the amount of $ 20,000,000.

AUTHORITY NOTE: Promulgated in accordance with LA. R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Office of Business Development and Louisiana Economic Development Corporation, LR 38:991 (April 2012).

§8707. Application Requirements for Qualification or Eligibility, and for Co-Investment

A. None of the provisions contained in §7707 of Chapter 77 of the Seed Capital Program shall apply to this Chapter 87 program. The co-investment provisions of Chapter 77 will not be utilized in this SSBCI Chapter 87 program.

AUTHORITY NOTE: Promulgated in accordance with LA. R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Office of Business Development and Louisiana Economic Development Corporation, LR 38:992 (April 2012).

§8709. Application Requirements for Qualification or Eligibility, and for Match Investment

A. Except as may be hereinafter provided, all of the provisions contained in §7709 of Chapter 77 of the Seed Capital Program shall also apply to this Chapter 87 program. Only match investments will be utilized in this SSBCI Chapter 87 program.

AUTHORITY NOTE: Promulgated in accordance with LA. R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Office of Business Development and Louisiana Economic Development Corporation, LR 38:992 (April 2012).

§8711. Application Process

A. Except as may be hereinafter provided, all of the provisions contained in §7711 of Chapter 77 of the Seed Capital Program shall also apply to this Chapter 87 program. Co-investments will not be utilized in this Chapter 87 program.

AUTHORITY NOTE: Promulgated in accordance with LA. R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Office of Business Development and Louisiana Economic Development Corporation, LR 38:992 (April 2012).

§8713. Investments

A. Except as may be hereinafter provided, all of the provisions contained in §7713 of Chapter 77 of the Seed Capital Program shall also apply to this Chapter 87 program, except that co-investments will not be utilized in this Chapter 87 program. Only match investments will be utilized in this SSBCI Chapter 87 Program.

B. A qualified or eligible fund may receive a match investment equal to $1 of LEDC funds for each $1.50 of funds privately raised by the applicant fund. The maximum LEDC match investment in an eligible fund shall not exceed $1,000,000.

C. LEDC investments made in a qualified seed capital fund will not exceed an initial investment of $450,000, with two expected follow-up investments, but not to exceed a total investment of $1,000,000 per fund.

AUTHORITY NOTE: Promulgated in accordance with LA. R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Office of Business Development and Louisiana Economic Development Corporation, LR 38:992 (April 2012).

§8715. Reporting

A. Except as may be hereinafter provided, all of the provisions contained in §7715 of Chapter 77 of the Seed Capital Program shall also apply to this Chapter 87 program.

AUTHORITY NOTE: Promulgated in accordance with LA. R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Office of Business Development and Louisiana Economic Development Corporation, LR 38:992 (April 2012).

Stephen M. Moret
Secretary

1204#067

RULE

Department of Economic Development
Office of the Secretary
Office of Business Development
and
Louisiana Economic Development Corporation

Small Business Loan and Guaranty Program (SBL and GP) and State Small Business Credit Initiative (SSBCI) Program (LAC 19:VII.Chapters 1 and 3)

Editor's Note: This Rule was printed in error in the March 20, 2012 edition of the *Louisiana Register* on pages 740-747. The effective date of this Rule is April 20, 2012.

The Louisiana Department of Economic Development, Office of the Secretary, Office of Business Development, and the Louisiana Economic Development Corporation, pursuant to the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and as authorized by R.S. 36:104, 36:108, 51:2302, and 51:2312, hereby amend, supplement, expand and re-adopt the rules of the Small Business Loan and Guaranty Program (SBL and GP) provided in LAC Title 19, Part VII, Subpart 1, Chapter 1, and to adopt new rules for the State Small Business Credit Initiative (SSBCI) Program, LAC Title 19, Part VII, Subpart 1, Chapter 3.

These amendments supplement and expand certain provisions of and to readopt the rules regarding the Small Business Loan and Guaranty Program (SBL and GP) and create the State Small Business Credit Initiative (SSBCI) Program pursuant to the State Small Business Credit

Initiative Act of 2010 (Title III of the Small Business Jobs Act of 2010, Public Law 111-240, 124 Stat. 2568, 2582) adopted by the U.S. Congress. The amendments to the rules supplement, expand and update some of the definitions and other provisions in the rules of the existing program, and new rules are being adopted since no rules currently exist for the new program. These programs will promote economic development in Louisiana, will stimulate the flow of capital and other financial assistance for the sound financing of the development, expansion, and retention of small business concerns in Louisiana; will help them grow and expand their businesses; and will provide higher levels of employment, income growth, and expanded economic opportunities, especially for small business enterprises in all areas of our state, including distressed and rural areas. These programs will further help secure the creation or retention of jobs created by small businesses in Louisiana that require state assistance in order to start, maintain or expand their operations, and/or increase their capital investment in Louisiana. These programs will help to prevent the loss of small business investment in this state and economic development projects that will create economic growth in Louisiana, thereby creating or retaining jobs that would improve the standard of living and enrich the quality of life for citizens of this state.

Title 19
CORPORATIONS AND BUSINESS
Part VII. Louisiana Economic Development Corporation
Subpart 1. Small Business Loan and Guaranty Program (SBL and GP)
Chapter 1. Loan and Guaranty Policies for the Small Business Loan and Guaranty Program (SBL and GP)

§101. Purpose

A. The Louisiana Economic Development Corporation (LEDC) wishes to stimulate the flow of private capital, medium to long-term loans, lines of credit loans, loan guaranties, loan participations and other financial assistance for the sound financing of the development, expansion, and retention of small business concerns in Louisiana, as a means of helping them grow and expand their businesses and of providing higher levels of employment, income growth, and expanded economic opportunities, especially to small and emerging businesses and disabled person business enterprises and within distressed and rural areas of our state.

B. The corporation will consider sound business loans, lines of credit, loan guaranties and loan participations so long as resources permit. The board of directors of the corporation recognizes that lending money, granting lines of credit, guaranteeing loans or participating in loans carries certain risks and is willing to undertake reasonable exposure.

C. LEDC will monitor the program, including the repayment progress of borrowers, as well as the servicing performance of participating lenders.

AUTHORITY NOTE: Promulgated in accordance with LA. R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Louisiana Economic Development Corporation, LR 15:445 (June 1989), re-promulgated LR 23:40 (January 1997), amended LR 26:2255 (October 2000), amended by the Department of Economic Development, Office of the Secretary, Office of Business Development and Louisiana Economic Development Corporation, LR 38:993 (April 2012).

§103. Definitions

Board—Board of Directors of Louisiana Economic Development Corporation.

Borrower—also referred to herein as the *applicant/borrower* or *customer/borrower;* the business person or entity borrowing and accepting the loaned funds from the lender.

Corporation—Louisiana Economic Development Corporation.

Disabled Person's Business Enterprise—a small business concern which is at least 51 percent owned and controlled by a disabled person, as defined by the federal Americans with Disabilities Act of 1990.

Financial Institution—also referred to herein as a *bank*, *financial lending institution*, *lending institution*, *commercial lending entity*, or *lender*; includes any insured depository institution, insured credit union, or community development financial institution, as those terms are defined in §103 of the Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4702).

Lead Lender—the bank or other lender that makes or originates the loan with the borrower.

LED—Louisiana Department of Economic Development.

LEDC—Louisiana Economic Development Corporation.

Lender—also referred to herein as the *applicant/lender;* the financial institution originating the loan and providing the loan funds to the borrower.

Line of Credit—the maximum amount of loan credit that a borrower is allowed to borrow over a period of time, whereby funds may be borrowed, provided or extended in various amounts over the agreed term, repaid or partially repaid by the borrower, and which funds may be re-extended by the lender to the borrower and repaid by the borrower over the agreed term of the credit.

Loan—the temporary provision of money or funds for a business purpose, usually for a limited term and requiring the payment of interest along with the repayment of the loaned funds. As used herein, the word *loan* includes a line of credit loan, loan guaranty and loan participation.

Loan Guaranty or *Guarantee*—an agreement to pay the loan of another borrower, up to any limit in the amount guaranteed as provided in the agreement, in case the original borrower defaults in or is unable to comply with his repayment obligation.

Loan Participation—an agreement to participate as a lender in a loan or to acquire from the lender a share or ownership interest in a loan. A *purchase participation* or *purchase transaction* is one in which the state purchases a portion of a loan originated by a lender; and a *companion loan*, a *parallel loan*, or a *co-lending participation* is one in which the lender originates a loan and the state originates a second loan to the same borrower. (In the latter case, the state's second loan may be subordinate or co-equal to the first loan originated by the lender.) *Loan participations* enable the state to act as a lender, in partnership with a financial institution lender, to provide small business loans at attractive terms.

Permanent Full-Time Jobs—refers to direct jobs which are not contract jobs, that are permanent and not temporary

in nature, requiring employees to work an average of 30 or more hours per week.

Small and Emerging Business—a Louisiana business certified as a *small and emerging business* (SEB) by the Louisiana Department of Economic Development's Community Outreach Services.

Small Business Concern—as defined by SBA for purposes of size eligibility as set forth by 13 CFR 121.

AUTHORITY NOTE: Promulgated in accordance with LA. R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Louisiana Economic Development Corporation, LR23:40 (January 1997), amended LR 26:2255 (October 2000), amended by the Department of Economic Development, Office of the Secretary, Office of Business Development and Louisiana Economic Development Corporation, LR 38:993 (April 2012).

§105. Application Process

A. Any applicant/borrower(s) applying for either a loan, line of credit, loan guaranty or loan participation will be required first to contact a financial lending institution (a bank or other commercial lending entity) that is willing to entertain, originate, process and service such a loan or line of credit with the prospect of a guaranty or a participation, and the lender will then contact LEDC for qualification and shall submit a complete application to LEDC for review and approval. The financial institution shall also be responsible for obtaining assurances of eligibility from each borrower.

B. Information submitted to LEDC with the application representing the applicant's/borrower's business plan, financial position, financial projections, personal financial statements and background checks will be kept confidential to the extent allowed under the Louisiana Public Records Law, R.S. 44:1 et seq. Confidential information in the files of LEDC and its accounts acquired in the course of its duty will be used solely by and for LEDC.

C. The following submission and review policies shall be followed.

1. A completed Louisiana Economic Development Corporation application form must be submitted to LEDC.

2. Small and emerging businesses (SEBs) applying for assistance under that provision will have to submit a copy of the certification from the Louisiana Department of Economic Development's community outreach services, along with the request for financial assistance.

3. Businesses applying for consideration under the disabled person's business enterprise provision shall submit adequate information to support the disabled status.

4. The applicant/lender shall submit to LEDC its complete analysis and evaluation, proposed loan structure, and commitment letter to the borrower. LEDC staff may do its own analysis and evaluation of the application, independent of the lending institution's analysis and evaluation.

5. The applicant/lender shall submit to LEDC the same pertinent data that it submitted to the lending institution's loan committee, whatever pertinent data the lending institution can legally supply.

6. LEDC staff will review the application and analysis, and then make recommendations. The staff will work with the applicant/lender on terms of the loan, including interest rate, maturity, collateral, other loan terms, and any LEDC loan stipulations or requirements.

7. The LEDC's board screening committee or the board's other designated committee will review only the completed applications submitted by LEDC staff and may approve or disapprove applications within its authority as established by the LEDC board, or will make recommendations to the LEDC board.

8. The applicant/borrower(s) or their designated representative, and the loan officer or a representative of the lending institution are not required to attend the board screening committee or other designated committee meeting unless requested by LEDC or its staff to do so.

9. The applicant/borrower(s) or their designated representative, and the loan officer or a representative of the lending institution shall be required to attend the LEDC's board of directors meeting wherein the application will be considered by the board.

10. LEDC's board of directors, the board screening committee, or the board's other designated committee that has considered the application within its authority has the final approval authority for such applications.

11. The applicant/borrower or the lending institution will be notified within five working days by mail or e-mail of the outcome of the application process.

12. An LEDC commitment letter, including LEDC's terms, and any stipulations or requirements, will be mailed or e-mailed by LEDC staff to the lending institution within five working days of approval by the LEDC board or its committee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department Economic Development, Louisiana Economic Development Corporation, LR 15:446 (June 1989), amended LR 23:40 (January 1997), LR 26:2255 (October 2000), amended by the Department of Economic Development, Office of the Secretary, Office of Business Development and Louisiana Economic Development Corporation, LR 38:994 (April 2012).

§107. Eligibility/Ineligibility for Participation in This Program

A. In connection with the business purpose for the requested loan: for loans up to and not to exceed $100,000, applicant/borrower shall create in this state at least one or shall retain in this state at least one permanent full-time job; and for loans in excess of $100,000, applicant/borrower(s) shall create in this state at least two new permanent full-time jobs.

B. The following businesses shall be eligible for participation in this program, except for those ineligible businesses and purposes hereinafter shown:

1. small business concerns domiciled in Louisiana whose owner(s) or principal stockholder(s) shall be a resident(s) of Louisiana;

2. certified small and emerging businesses (SEBs);

3. disabled person's business enterprises domiciled in Louisiana whose owner(s) or principal stockholder(s) shall be a resident(s) of Louisiana; or

4. funding requests for any business purpose may be considered, except for the following ineligible businesses or purposes:

a. restaurants (except for regional or national franchises), including grills, cafes, fast food operations, motorized vehicle, trailer, curb-side or sidewalk or street vendor food operations, and any other business or project

established for the principal purpose of dispensing cooked food for consumption on or off the premises;

b. bars, packaged liquor stores, including any other business or project established for the principal purpose of dispensing alcoholic beverages;

c. any business or establishment which has gaming or gambling as its principal business;

d. any business or establishment which has consumer or commercial financing as its business;

e. funding for the acquisition, renovation, or alteration of a building or property for the principal purpose of real estate speculation, rental, or any other passive real estate investment purposes;

f. funding for the principal purpose of refinancing existing debt;

g. funding for the purpose of buying out any stockholder or equity holder by another stockholder or equity holder in a business;

h. funding for the purpose of establishing a park, theme park, amusement park, or camping facility; or

i. funding for the purpose of buying out any family member or reimbursing any family member.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Louisiana Economic Development Corporation, LR 15:446 (June 1989), amended LR 23:41 (January 1997), LR 26:2255 (October 2000), LR 38:994 (April 2012).

§109. General Loan, Credit, Guaranty and Participation Provisions

A. The Louisiana Economic Development Corporation will be guided by the following general principles in making loans or approving lines of credit, loan guaranties or loan participations.

1. The corporation shall confirm that the financial institution lender has sufficient commercial lending experience and financial and managerial capacity to participate in this program. The corporation may utilize, among other resources, the financial institution's most recent call report showing the percentage of commercial loans in its portfolio.

2. The corporation shall not knowingly approve any loan, line of credit, loan guarantee or loan participation if the applicant/borrower has presently pending or outstanding any claim or liability relating to failure or inability to pay promissory notes or other evidence of indebtedness, state or federal taxes, or a bankruptcy proceeding; nor shall the corporation approve any loan, line of credit, loan guarantee or participation if the applicant/borrower has presently pending, at the federal, state, or local level, any proceeding concerning denial or revocation of a necessary license or permit or any legal proceeding involving a criminal violation other than misdemeanor traffic violations. Further, the corporation shall not approve any loan, line of credit, loan guarantee or participation if the applicant/ borrower or his/her/its principle management has a criminal record showing convictions for any criminal violations other than misdemeanor traffic violations.

3. The terms or conditions imposed and made part of any loan, line of credit, loan guaranty or loan participation authorized by vote of the corporation board, its board screening committee or its other designated committee shall not be amended or altered by any member of the board or employee of the Department of Economic Development except by subsequent vote of approval by the board, its board screening committee or other designated committee at the next meeting of the board or committee in open session with full explanation for such action.

4. Each financial institution lender shall be required to have a meaningful amount of its own capital resources at risk in each small business loan included in this Program. Such lenders shall bear at least 25 percent or more of the loss from a small business loan default.

5. The corporation shall not subordinate its position to other creditors.

B. Interest Rates

1. On all loan or line of credit guarantees, the interest rate is to be negotiated between the borrower and the lender, but shall not exceed 5 percent per annum above New York prime as published in the *Wall Street Journal* at either a fixed or variable rate.

2. On all participation loans, the rate shall be determined by utilizing the rate for a U.S. Government Treasury security for the time period that coincides with the term of the participation and adding between 1 and 5 percentage points.

3. The applicant/lender may apply for a linked deposit under the Small Business Linked Deposit Program on the term portion of either a guaranteed loan or a participated loan.

C. Collateral

1. The collateral-to-loan ratio will be no less than 1:1.

2. The collateral position may be negotiated, but it shall be no less than a sole second position.

3. Collateral Value Determination

a. The appraiser must be certified by recognized organization in the area of the collateral.

b. The appraisal cannot be more than 90 days old.

4. Acceptable collateral may include, but shall not be limited to, the following:

a. fixed assets—business real estate, buildings, fixtures;

b. equipment, machinery, inventory;

c. personal guarantees may be used only as additional collateral and will not count toward the 1:1 coverage; if used, signed and dated personal financial statements of the guarantors must also be submitted to LEDC;

d. accounts receivable with supporting aging schedule; but not to exceed 80 percent of receivable value (to be used with personal guarantee only).

5. Unacceptable collateral may include, but shall not be limited to the following:

a. stock in applicant/borrower company and/or related companies;

b. personal items or personal real estate;

c. intangibles.

D. Equity Requirements

1. Equity required will be 20 percent of the loan or line of credit amount for a start-up operation or acquisition, and no less than 15 percent for an expansion. However, if 20 percent is not available for a guarantee the following chart may be applied which provides for a guarantee fee attached to a lesser equity position.

Equity %	Guarantee Fee
19 %	2.20 %
18 %	2.40 %
17 %	2.60 %
16 %	2.80 %
15 %	3.00 %
14 %	3.20 %
13 %	3.40 %
12 %	3.60 %
11 %	3.80 %
10 %	4.00 %

*In no case shall the equity position be less than 10 percent.

2. *Equity* is defined to be:
   a. cash;
   b. paid-in capital;
   c. paid-in surplus and retained earnings; or
   d. partnership capital and retained earnings.

3. No research, development expense nor intangibles of any kind will be considered equity.

E. Limit on the Amount of LEDC's Guarantee

1. For small business loans, the corporation's loan guarantee shall be:
   a. no greater than 75 percent of a loan of up to $650,000;
   b. no greater than 70 percent of a loan of up to $1,100,000;
   c. no greater than 65 percent of a loan of up to $2,300,000; or
   d. if the loan request exceeds $2,300,000, the guaranty shall not exceed $1,500,000.

2. For certified small and emerging business loans, or disabled person's business enterprise loans, the corporation's loan guarantee shall be:
   a. no greater than 90 percent of a loan of up to $560,000;
   b. no greater than 85 percent of a loan of up to $875,000;
   c. no greater than 75 percent of a loan of up to $2,000,000; or
   d. if the loan request exceeds $2,000,000, the guaranty shall not exceed $1,500,000.

3. For small businesses, the corporation's loan participation shall be no greater than 40 percent, but in no case shall it exceed $1,500,000.

4. For certified small and emerging businesses, or disabled person's business enterprises, the corporation's loan participation shall be no greater than 50 percent, but in no case shall it exceed $1,000,000.

F. Terms

1. Maturity, collateral, and other loan terms shall be negotiated between the borrower and the applicant/lending institution, but line of credit loans shall not exceed five years and term loans shall not exceed seven years. The LEDC shall have an opportunity to approve the terms of such loans prior to the closing.

G. LEDC Fees

1. LEDC will charge a guaranty fee not to exceed a maximum amount of 4 percent on the guaranteed loan amount, unless the board, the board screening committee or other designated committee waives the guaranty fee.

2. LEDC will charge a $100 application fee, unless the board, the board screening committee or other designated committee waives the application fee.

3. LEDC will share in a pro-rata position in any fees assessed by the lender on a loan participation.

H. Use of Loan Funds (including line of credit, guaranty and participation funds)

1. Loan funds may be used for business purposes, including but not limited to the purchase of fixed assets, including buildings that will be occupied by the applicant/borrower to the extent of at least 51 percent.

2. Loan funds may be used for the purchase of equipment, machinery, or inventory.

3. Loan funds may be used for a line of credit for accounts receivable or inventory.

4. Debt restructure may be considered by LEDC, but will not be considered when the debt:
   a. exceeds 25 percent of the total loan, with the following exception:
      i. a maximum of 35 percent may be considered on a guaranteed loan, but the guaranteed percentage will be decreased by 5 percent;
   b. pays off a creditor or creditors who are inadequately secured;
   c. provides funds to pay off a debt to principals of the borrower business; and/or
   d. provides funds to pay off family members.

5. Loan funds may not be used to buy out stockholders or equity holders of any kind, by any other stockholder or equity holder.

6. Loan funds may not be used to purchase any speculative investment or real estate development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Louisiana Economic Development Corporation, LR 15:448 (June 1989), amended LR 23:41 (January 1997), LR 26:2256 (October 2000), amended by the Department of Economic Development, Office of the Secretary, Office of Business Development and Louisiana Economic Development Corporation, LR 38:995 (April 2012).

§111. General Agreement Provisions

A. Guaranty Agreement

1. The lending institution shall conduct all of the customer/borrower interaction, and shall be responsible for the proper administration and monitoring of the loan or line of credit, including monthly invoicing, collections, and loan workouts, and the proper liquidation of the collateral in the event of a default.

2. The loan or line of credit shall not be sold, assigned, participated out, or otherwise transferred without the prior written consent of the LEDC board.

3. If liquidation through foreclosure occurs, the lender will sell the collateral and handle the legal proceedings.

4. There will be a reduction of the guarantee:
   a. in proportion to the principal reduction of the amortized portion of the loan or line of credit;
   b. if no principal reduction has occurred in any annual period of the loan or line of credit, a reduction in the guarantee amount will be made proportional to the remaining guarantee life.

5. The guarantee will cover the unpaid principal amount owed only.

6. Delinquency will be defined according to the lender's normal lending policy and all remedies will be outlined in the guarantee agreement. Notification of

delinquency will be made to the corporation in writing and verbally in a time satisfactory to the lender and the corporation, as stated in the guarantee agreement.

B. Participation Agreement

1. The lending institution shall conduct all of the customer/borrower interaction, and shall be responsible for the proper administration and monitoring of the loan, including monthly invoicing, collections, and loan workouts, and the proper liquidation of the collateral in the event of a default.

2. The lead lender will hold no less participation in the loan than that equal to LEDC's, but not to exceed its legal lending limit.

3. The lead lender may sell other participations with LEDC's consent.

4. Should liquidation through foreclosure occur, the lender will sell the collateral and handle the legal proceedings.

5. The lender is able to set its rate according to risk, and may blend its rate with the LEDC rate to yield a lower overall rate to a project.

6. Delinquency will be defined according to the lender's normal lending policy and all remedies will be outlined in the participation agreement. Notification of delinquency will be made to the corporation in writing and verbally in a time satisfactory to the lender and the corporation, as stated in the participation agreement.

C. Borrower Agreement

1. At the discretion of LEDC, the borrower will agree to strengthen management skills by participation in a form of continuing education acceptable to LEDC.

2. The borrower shall provide initial proof as well as an annual report of job creation, including the number of jobs, job titles and salaries.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Louisiana Economic Development Corporation, LR 15:448 (June 1989), amended LR 23:42 (January 1997), LR 26:2257 (October 2000), amended by the Department of Economic Development, Office of the Secretary, Office of Business Development and Louisiana Economic Development Corporation, LR 38:996 (April 2012).

§113. Confidentiality

A. Confidential information in the files of the corporation and its accounts acquired in the course of its duty is to be used solely for the corporation. The corporation is not obliged to give out any credit rating or confidential information regarding the applicant/borrower (see Louisiana Attorney General's Opinion #82-860).

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Louisiana Economic Development Corporation, LR 15:453 (June 1989), amended LR 23:43 (January 1997), LR 26:2257 (October 2000), amended by the Department of Economic Development, Office of the Secretary, Office of Business Development and Louisiana Economic Development Corporation, LR 38:997 (April 2012).

§115. Conflict of Interest

A. No member of the corporation, employee thereof, or employee of the Department of Economic Development, or members of their immediate families shall either directly or indirectly be a party to or be in any manner interested in any contract or agreement with the corporation for any matter, cause, or thing whatsoever by reason whereof any liability or indebtedness shall in any way be created against such corporation. If any contract or agreement shall be made in violation of the provisions of this Section, the same shall be null and void, and no action shall be maintained thereon against the corporation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Louisiana Economic Development Corporation, LR 15:453 (June 1989), amended LR 23:43 (January 1997), LR 26:2258 (October 2000), amended by the Department of Economic Development, Office of the Secretary, Office of Business Development and Louisiana Economic Development Corporation, LR 38:997 (April 2012).

Chapter 3. Loan and Guaranty Policies for the State Small Business Credit Initiative (SSBCI) Program

§301. Purpose

A. The purposes for this Chapter 3 program shall be the same as the purposes previously provided in Section 101 of Chapter 1 of the Small Business Loan and Guaranty Program which shall also apply to this Chapter 3 program (except that loan participations will not be utilized in this Chapter 3 program); and additionally this Chapter 3 program is to establish loan and guaranty policies for the federal program entitled the State Small Business Credit Initiative (SSBCI) Program and to accommodate the requirements of this federal program. The Louisiana Economic Development Corporation (LEDC) will utilize SSBCI funds to increase access to credit and capital funding to further assist small businesses statewide, to expand loan capabilities to include a broader range of businesses statewide, to direct a greater concentration on those small businesses, and to reach, identify and promote small business growth in low and moderate income communities, in minority communities, in other underserved communities, and to women- and minority-owned businesses. This LEDC program and the SSBCI funding will be marketed through outreach activities to inform lenders, small businesses and trade associations of the program, and to generate increased small business activity, awareness and access to additional sources of capital to start and expand existing business opportunities, as well as participation in the program. The LEDC will also monitor these plans, including the repayment progress of borrowers, the servicing performance of participating lenders, and to ensure successful outcomes in the form of program utilization and eventual securing of funds for these groups.

B. The LEDC wishes to maintain for this Chapter 3 Program all of the purposes of §101 and all of the other Sections and provisions of Chapter 1 of the Small Business Loan and Guaranty Program shown above, except where there is a need for the policies of this Program to be different from Chapter 1. For this reason, all of the Sections and provisions of Chapter 1 above shall also apply to this Chapter 3, except in those instances where a different or additional rule or policy is provided below in this Chapter 3.

AUTHORITY NOTE: Promulgated in accordance with LA. R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Office of Business

Development and Louisiana Economic Development Corporation, LR 38:997 (April 2012).

§303. Definitions

A. All of the same definitions provided in Section 103 of Chapter 1 of the Small Business Loan and Guaranty Program shall also apply to this Chapter 3 program.

AUTHORITY NOTE: Promulgated in accordance with LA. R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Office of Business Development and Louisiana Economic Development Corporation, LR 38:998 (April 2012).

§305. Application Process

A. Except as may be hereinafter provided, all of the provisions contained in §105 of Chapter 1 of the Small Business Loan and Guaranty Program shall also apply to this Chapter 3 program (except that loan participations will not be utilized in this Chapter 3 program).

B. Loan Purpose Requirements and Prohibitions. In addition to the application process provisions provided in the Section mentioned in the above Subsection A, in connection with each loan to be enrolled under this Chapter 3 program the financial institution lender shall also be responsible for obtaining and providing to LEDC with the lender's application an assurance from each borrower stating that the loan proceeds shall not be used for any impermissible purpose under the SSBCI Program. And additionally, each financial institution lender must also obtain and provide to LEDC with its application under this Chapter 3 program an assurance from the borrower affirming:

1. the loan proceeds must be used for a business purpose. A *business purpose* includes, but is not limited to, start up costs, working capital, business procurement, franchise fees, equipment, inventory, as well as the purchase, construction renovation or tenant improvements of an eligible place of business that is not for passive real estate investment purposes. The definition of *business purpose* excludes activities that relate to acquiring or holding passive investments such as commercial real estate ownership, the purchase of securities; and lobbying activities as defined in section 3 (7) of the Lobbying Disclosure Act of 1995, P.L. 104-65, as amended;

2. the loan proceeds will not be used to:

a. repay a delinquent federal or state income taxes unless the borrower has a payment plan in place with the relevant taxing authority; or

b. repay taxes held in trust or escrow, e.g. payroll or sales taxes; or

c. reimburse funds owed to any owner, including any equity injection or injection of capital for the business' continuance; or

d. purchase any portion of the ownership interest of any owner of the business;

3. the borrower is not:

a. an executive officer, director, or principal shareholder of the financial institution lender; or

b. a member of the immediate family of an executive officer, director, or principal shareholder of the financial institution lenders; or

c. a related interest of an such executive officer, director, principal shareholder, or member of the immediate family;

i. for the purposes of these three borrower restrictions, the terms *executive officer*, *director*, *principal shareholder*, *immediate family*, and *related interest* refer to the same relationship to a financial institution lender as the relationship described in part 215 of title 12 of the *Code of Federal Regulations*, or any successor to such part;

4. the borrower is not:

a. a business engaged in speculative activities that develop profits from fluctuations in price rather than through normal course of trade, such as wildcatting for oil and dealing in commodities futures, unless those activities are incidental to the regular activities of the business and part of a legitimate risk management strategy to guard against price fluctuations related to the regular activities of the business;

NOTE: Permissible borrowers include state-designated charitable, religious, or other non-profit or eleemosynary institutions, government-owned corporations, consumer and marketing cooperatives, and faith-based organizations provided the loan is for a "business purpose" as defined above.

b. a business that earns more than half of its annual net revenue from lending activities; unless the business is a non-bank or non-bank holding company certified as a community development financial institution; or

c. a business engaged in pyramid sales, where a participant's primary incentive is based on the sales made by an ever-increasing number of participants; or

d. a business engaged in activities that are prohibited by federal law or applicable law in the jurisdiction where the business is located or conducted (Included in these activities is the production, servicing, or distribution of otherwise legal products that are to be used in connection with an illegal activity, such as selling drug paraphernalia or operating a motel that knowingly permits illegal prostitution.); or

e. a business engaged in gambling enterprises, unless the business earns less than 33 percent of its annual net revenue from lottery sales;

5. no principal of the borrowing entity has been convicted of a sex offense against a minor [as such terms are defined in section 111 of the Sex Offender Registration and Notification Act (42 U.S.C. 16911)]. For the purposes of this certification, *principal* is defined as if a sole proprietorship, the proprietor; if a partnership, each managing partner and each partner who is a natural person and holds a 20 percent or more ownership interest in the partnership; and if a corporation, limited liability company, association or a development company, each director, each of the five most highly compensated executives or officers of the entity, and each natural person who is a direct or indirect holder of 20 percent or more of the ownership stock or stock equivalent of the entity.

C. The financial institution lender must also provide to LEDC with its application, in connection with each loan to be enrolled under this Chapter 3 program, an assurance affirming:

1. he loan has not been made in order to place under the protection of the approved state Capital Access Program (CAP) prior debt that is not covered under the approved state CAP and that is or was owed by the borrower to the financial institution lender or to an affiliate of the financial institution lender;

2. the loan is not a refinancing of a loan previously made to that borrower by the financial institution lender or an affiliate of the financial institution lender;

3. no principal of the financial institution lender has been convicted of a sex offense against a minor [as such terms are defined in section 111 of the Sex Offender Registration and Notification Act (42 U.S.C. 16911)]. For the purposes of this certification, *principal* is defined as if a sole proprietorship, the proprietor; if a partnership, each partner; if a corporation, limited liability company, association or a development company, each director, each of the five most highly compensated executives, officers, or employees of the entity, and each direct or indirect holder of 20 percent or more of the ownership stock or stock equivalent of the entity.

AUTHORITY NOTE: Promulgated in accordance with LA. R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Office of Business Development and Louisiana Economic Development Corporation, LR 38:998 (April 2012).

§307. Eligibility/Ineligibility for Participation in This Program

A. Except as may be hereinafter provided, all of the provisions contained in §107 of Chapter 1 of the Small Business Loan and Guaranty Program shall also apply to this Chapter 3 program (except that loan participations will not be utilized in this Chapter 3 program).

B. In addition to the eligibility and ineligibility provisions provided in the Section mentioned in the above Subsection A, applicant/borrowers and loans, lines of credit and loan guarantees in connection with this Chapter 3 program shall meet the following criteria:

1. the applicant/borrower(s) shall employ 500 employees or less at the time the loan is enrolled in this program;

2. this credit support shall not be extended to applicant/borrower(s) that have more than 750 employees;

3. any loan supported in this program shall not exceed a principal amount of $5,000,000;

4. any credit extended through this program shall not exceed a principal amount of $20,000,000;

5. SSBCI funds utilized in this Chapter 3 program will be permitted only for new extensions of credit; that is, funds of the SSBCI Program shall not be used to support existing extensions of credit, including but not limited to prior loans, lines of credit or other borrowing, that were previously made available as part of a state small business credit enhancement program; and

6. Small Business Administration (SBA) guaranteed loans shall not be purchased in loan participations through this program.

AUTHORITY NOTE: Promulgated in accordance with LA. R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Office of Business Development and Louisiana Economic Development Corporation, LR 38:999 (April 2012).

§309. General Loan, Credit, Guaranty and Participation Provisions

A. Except as may be hereinafter provided, all of the provisions contained in §109 of Chapter 1 of the Small Business Loan and Guaranty Program shall also apply to this Chapter 3 program (except that loan participations will not be utilized in this Chapter 3 program).

B. Interest Rates

1. On all loan or line of credit guarantees, the interest rate is to be negotiated between the borrower and the lender, but shall not exceed 5 percent per annum above New York prime as published in the *Wall Street Journal* at either a fixed or variable rate.

C. Equity Requirements

1. To qualify for this Chapter 3 program, the borrower must infuse not less than 15 percent into the equity in an existing or expanding business, or not less than 20 percent into the equity of a start-up operation or an acquisition.

D. Limit on the Amount of LEDC's Guarantee

1. In connection with loans included in this Chapter 3 program, for certified small and emerging business loans, or disabled person's business enterprise loans, the corporation's loan guarantee shall be:

a. no greater than 75 percent of a loan of up to $2,000,000; or

b. if the loan request exceeds $2,000,000, the guaranty shall not exceed $1,500,000.

E. Terms

1. For loans included in this Chapter 3 program, the term of line of credit loans and term loans shall not exceed three years.

F. LEDC Fees

1. In connection with loans and guaranties included in this Chapter 3 program, LEDC will charge a guaranty fee not to exceed a maximum amount of 2 percent of the guaranteed loan amount, unless the board, the board screening committee or other designated committee waives the guaranty fee.

2. In connection with loans and guaranties included in this Chapter 3 program, LEDC will charge no application fee.

AUTHORITY NOTE: Promulgated in accordance with LA. R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Office of Business Development and Louisiana Economic Development Corporation, LR 38:999 (April 2012).

§311. General Agreement Provisions

A. Except as may be hereinafter provided, all of the provisions contained in §111 of Chapter 1 of the Small Business Loan and Guaranty Program shall also apply to this Chapter 3 program (except that loan participations will not be utilized in this Chapter 3 program).

AUTHORITY NOTE: Promulgated in accordance with LA. R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Office of Business Development and Louisiana Economic Development Corporation, LR 38:999 (April 2012).

§313. Confidentiality

A. All of the provisions contained in §113 of Chapter 1 of the Small Business Loan and Guaranty Program shall also apply to this Chapter 3 program.

AUTHORITY NOTE: Promulgated in accordance with LA. R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Office of Business Development and Louisiana Economic Development Corporation, LR 38:999 (April 2012).

§315. Conflict of Interest

A. All of the provisions contained in §115 of Chapter 1 of the Small Business Loan and Guaranty Program shall also apply to this Chapter 3 program.

AUTHORITY NOTE: Promulgated in accordance with LA. R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Office of Business Development and Louisiana Economic Development Corporation, LR 38:1000 (April 2012).

Stephen M. Moret
Secretary

1204#068

RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Compulsory Attendance (LAC 28:CXV.1103)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 741—Louisiana Handbook for School Administrators:* §1103. Compulsory Attendance. This policy revision, required by Act 166 of the 2011 Regular Legislative Session, allows for a child who is at least seventeen years of age and who, after successfully completing a program established by the State Board of Elementary and Secondary Education, has been issued a Louisiana High School Equivalency Diploma in accordance with criteria established by the Board of Supervisors of Community and Technical Colleges, shall be considered exited from high school.

Title 28
EDUCATION
Part CXV. Bulletin 741—Louisiana Handbook for School Administrators
Chapter 11. Student Services
§1103. Compulsory Attendance

A. - B.3. …

4. A student who is at least seventeen years of age may exit high school without violating compulsory attendance statute (R.S. 17:221), if that student has met the following criteria:

a. completed a program established by BESE;

b. achieved a passing score on the GED test; and

c. received a Louisiana High School Equivalency Diploma issued by the Board of Supervisors of Louisiana Community and Technical College System.

C. - N. ...

NOTE: Refer to §1117.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:112; R.S. 17:221.3-4; R.S. 17:226.1; R.S. 17:233.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1273 (June 2005), amended LR 32:546 (April 2006), LR 32:1030 (June 2006), LR 33:2351 (November 2007), LR 35:641 (April 2009), LR 35:1097 (June 2009), LR 35:1475 (August 2009), LR 36:482 (March 2010), LR 36:1224 (June 2010), LR 37:1126 (April 2011), LR 37:2132 (July 2011), LR 38:1000 (April 2012).

Catherine R. Pozniak
Executive Director

1204#028

RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Connections Process (LAC 28:CXV.2907)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 741—Louisiana Handbook for School Administrators:* §2907. Connections Process. *Connections* is a one year process for overage students to receive targeted instruction and accelerated remediation. The connections process will include the following elements: academic and behavioral interventions; mentoring; job skills training; TABE locator and battery assessments; committee reviews; parent meetings; individual prescriptions for instruction; individual graduation plans; and exiting pathways (high school diploma via accelerated pathway: core or career diploma; GED pathway; state-approved skills certificate). Students on the high school diploma and GED pathways may also work towards industry based certification.

Title 28
EDUCATION
Part CXV. Bulletin 741—Louisiana Handbook for School Administrators
Chapter 29. Alternative Schools and Programs
§2907. Connections Process

A. The connections process replaces Louisiana's PreGED/Skills Option Program. Connections is a one year process for overage students to receive targeted instruction and accelerated remediation aimed at attaining a high school diploma, high school equivalency diploma (by passage of GED tests), or state-approved skills certificate. The process includes a connections profile to track the following elements: academic and behavioral interventions; mentoring; job skills training; TABE locator and battery assessments; committee reviews; parent meetings; individual prescriptions for instruction; individual graduation plans; and exiting pathways. While in the connections process, students are eigth graders. Students can move from any middle school grade into the connections process provided they meet the criteria below.

NOTE: Refer to High Stakes Testing Policy in *Bulletin 1566—Pupil Progression Policies and Procedures*.

B. A school system shall implement the connections process and shall obtain approval from the DOE at least 60 days prior to establishment. A program application describing the connections process shall be submitted and shall address the following program requirements.

1. - 4. ...

5. There shall be three exiting pathways for the connections process student provided the student has

completed all requirements for LEAP or LAA2 (if applicable) testing. In addition, a student pursuing a high school diploma or GED may work on an industry based certification (recommended TABE reading grade level score = 8.0). All students will be tested in reading, and depending on need, may also be tested in math and/or language.

a - c.ii. ...

d. A student who has not participated in the connections process may request a waiver, due to extenuating circumstances, and may enter the SASC or GED pathway upon approval of a committee designated by the school administration. The student must be afforded the same opportunities as a connections student, including mentoring and committee meetings. A copy of the waiver and back-up documentation must be kept in the student's profile which will follow him/her until graduation.

e. A student's IPI shall be maintained until the student completes an exiting pathway.

6. The connections process shall include the following components:

a. district coordinator;

b. lead teacher/JAG specialist;

c. counselor;

d. ELA/math certified teachers;

e. CTE/IBC certified teachers;

f. special education certified teacher for SWDs;

g. teachers who are certified to offer Carnegie unit credits;

h. mentor/JAG specialist;

i. low teacher: student ratio will be required at each site: 1:15 or 1:25 with a paraprofessional in the class;

j. TABE certified test administrators.

7. - 9. ...

C. While enrolled as an eighth grader in the connections process, they shall be required to take the eighth grade LEAP or LAA2 (if applicable). The high stakes testing policy in Bulletin 1566 applies.

D. Upon committee review and recommendation a student who makes significant progress may remain in the connections process for a maximum of one additional year before entering an exiting pathway.

E. Further information on full process implementation can be found in the connections process handbook on the Louisiana Department of Education website.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:100.5.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1308 (June 2005), amended LR 34:2032 (October 2008), LR 37:2131 (July 2011), LR 38:1000 (April 2012).

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1204#027

RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Curriculum and Instruction
(LAC 28:CXV.2318 and 2319)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended *Bulletin 741—Louisiana Handbook for School Administrators:* §2318. The College and Career Diploma and §2319. The Career Diploma. These policy revisions add three courses to the list of courses meeting graduation requirements and restore some language accidentally changed in previous revisions. These revisions were requested by districts and schools.

Title 28
EDUCATION
Part CXV. Bulletin 741—Louisiana Handbook for School Administrators
Chapter 23. Curriculum and Instruction
§2318. The College and Career Diploma

A. - C.2.f.ii.Note. …

g. Electives—8 units:

i. shall include the minimum courses required to complete a career area of concentration for incoming freshmen 2010-2011 and beyond.

(a). The area of concentration shall include one unit of Education for Careers, Journey to Careers, or JAG.

h. Total—l24 units.

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

NOTE: For courses indicated with *, an Advanced Placement (AP) or International Baccalaureate (IB) course designated in §2325 may be substituted.

a. English—4 units:

i. English I;

ii. English II;

iii. English III*;

iv. English IV*.

b. Mathematics—4 units:

i. Algebra I, Applied Algebra I, or Algebra I-Pt. 2;

ii. Geometry or Applied Geometry;

iii. Algebra II;

iv. the remaining unit shall come from the following:

(a). Financial Mathematics;

(b). Math Essentials;

(c). Advanced Math—Pre-Calculus;

(d). Advanced Math—Functions and Statistics;

(e). Pre-Calculus*;

(f). Calculus*;

(g). Probability and Statistics*;

(h). Discrete Mathematics;
(i). AP Calculus BC; or
(j). a locally initiated elective approved by BESE as a math substitute.

c. Science—4 units:
i. 1 unit of Biology*;
ii. 1 unit of Chemistry*;
iii. 2 units from the following courses:
(a). Physical Science;
(b). Integrated Science;
(c). Physics I*;
(d). Physics of Technology I;
(e). Aerospace Science;
(f). Biology II*;
(g). Chemistry II*;
(h). Earth Science;
(i). Environmental Science;
(j). Physics II*;
(k). Physics of Technology II;
(l). Agriscience II;
(m).Anatomy and Physiology; or
(n). a locally initiated elective approved by BESE as a science substitute;
iv. Students may not take both Integrated Science and Physical Science;
v. Agriscience I is a prerequisite for Agriscience II and is an elective course;
vi. a student completing a career area of concentration may substitute one of the following BESE/Board of Regents approved IBC course from among the primary courses in the student's area of concentration for the fourth required science unit:
(a). Nutrition and Foods and Advanced Nutrition and Foods;
(b). Food Services II;
(c). Allied Health Services II;
(d). Dental Assistant II;
(e). Emergency Medical Technician-Basic (EMT-B);
(f). Health Science II;
(g). Medical Assistant II;
(h). Sports Medicine III;
(i). Advanced Electricity/Electronics;
(j). Process Technician II;
(k). NCCR Electrical II;
(l). Computer Service Technology II;
(m). Horticulture II;
(n). Networking Basics;
(o). Routers and Routing Basics;
(p). Switching Basics and Intermediate Routing;
(q). WAN Technologies;
(r). Animal Science;
(s). Biotechnology in Agriscience;
(t). Environmental Studies in Agriscience;
(u). Equine Science;
(v). Forestry;
(w). Horticulture;
(x). Small Animal Care/Management;
(y). Veterinary Assistant;
(z). Oracle Academy Course: DB Programming with PL/SQL;
(aa). NCCR Electrical II TE; and
(bb). NCCR Electricity in Agriscience.

d. Social Studies—4 units:
i. Civics* (1 unit) or 1/2 unit of Civics* and 1/2 unit of Free Enterprise;

NOTE: Students entering the ninth grade in 2011-2012 and beyond must have one unit of Civics with a section on Free Enterprise.

ii. U.S. History*;
iii. 1 unit from the following:
(a). World History*;
(b). World Geography*;
(c). Western Civilization*; or
(d). AP European History.
iv. 1 unit from the following:
(a). World History*;
(b). World Geography*;
(c). Western Civilization*; or
(d). AP European History;
(e). Law Studies;
(f). Psychology;
(g). Sociology;
(h). Civics (second semester—1/2 credit);
(i). African American Studies; or
(j). Economics;

NOTE: Students may take two half credit courses for the fourth required social studies unit.

v. a student completing a career area of concentration may substitute one of the following BESE/Board of Regents approved IBC course from among the primary courses in the student's area of concentration for the fourth required social studies unit:
(a). Advanced Child Development;
(b). Early Childhood Education II;
(c). Family and Consumer Sciences II;
(d). ProStart II;
(e). T and I Cooperative Education (TICE);
(f). Cooperative Agriculture Education;
(g). Administrative Support Occupations;
(h). Business Communication;
(i). Cooperative Office Education;
(j). Entrepreneurship—Business;
(k). Lodging Management II;
(l). Advertising and Sales Promotion;
(m).Cooperative Marketing Education I;
(n). Entrepreneurship—Marketing;
(o). Marketing Management;
(p). Marketing Research;
(q). Principles of Marketing II;
(r). Retail Marketing;
(s). Tourism Marketing;
(t). CTE Internship;
(u). General Cooperative Education II;
(v). STAR II.

e. Health Education—1/2 unit:
i. JROTC I and II may be used to meet the health education requirement. Refer to §2347.

f. Physical Education—1 1/2 units:

i. shall be Physical Education I and Physical Education II, or Adapted Physical Education for eligible special education students;

ii. a maximum of 4 units of Physical Education may be used toward graduation.

NOTE: The substitution of JROTC is permissible.

g. Foreign language—2 units:

i. shall be 2 units in the same foreign language or 2 speech courses.

h. Arts—1 unit:

i. 1 unit Art (§2333), Dance (§2337), Media Arts (§2354), Music (§2355), Theatre Arts, (§2369), or Fine Arts Survey;

NOTE: Students may satisfy this requirement by earning half credits in two different arts courses.

ii. a student completing a career area of concentration may substitute one of the following BESE/Board of Regents approved IBC course from among the primary courses in the student's area of concentration for the fourth required applied art unit:

(a). Clothing and Textiles and Advanced Clothing and Textiles;

(b). NCCR Carpentry II TE;

(c). NCCR Welding Technology II;

(d). Advanced Metal Technology;

(e). Advanced Technical Drafting;

(f). Architectural Drafting;

(g). NCCR Carpentry II—T and I;

(h). NCCR Welding Technology II—T and I;

(i). Cabinetmaking II;

(j). Commercial Art II;

(k). Cosmetology II;

(l). Culinary Occupations II;

(m). Custom Sewing II;

(n). Graphic Arts II;

(o). Photography II;

(p). Television Production II;

(q). Upholstery II;

(r). Welding II;

(s). NCCR Carpentry In Agriscience;

(t). NCCR Welding Technology Agriscience;

(u). Agriscience Construction Technology;

(v). Agriscience Power Equipment;

(w). Floristry;

(x). Landscape Design and Construction;

(y). Introduction to Business Computer Applications;

(z). Accounting II;

(aa). Business Computer Applications;

(bb). Computer Multimedia Presentations;

(cc). Desktop Publishing;

(dd). Keyboarding Applications;

(ee). Telecommunications;

(ff). Web Design I or II;

(gg). Word Processing; and

(hh). Digital Media II.

i. Electives—3 units.

j. Total—24 units.

k. The substitutions below are allowed for students attending the New Orleans Center for Creative Arts.

i. NOCCA Integrated English I, II, III, and IV can be substituted for English I, II, III, and IV.

ii. NOCCA Integrated Mathematics I, II, and III can be substituted for Algebra I, Geometry and Algebra II.

iii. NOCCA Integrated Science I, II, III, and IV can be substituted for Environmental Science, Biology, Chemistry, and Physics.

iv. NOCCA Integrated World History I, II, III, and IV can be substituted for World Geography, World History, Civics, and U.S. History.

4. High School Area of Concentration

a. All high schools shall provide students the opportunity to complete an area of concentration with an academic focus and/or a career focus.

i. Incoming freshmen prior to 2008-2009 can complete an academic area of concentration by completing the current course requirements for the Taylor Opportunity Program for Students (TOPS) Opportunity Award.

ii. Incoming freshmen in 2008-2009 and beyond can complete an academic area of concentration by completing the course requirements for the LA Core 4 curriculum.

iii. To complete a career area of concentration, students shall meet the minimum requirements for graduation including four elective primary credits in the area of concentration and two related elective credits, including one computer/technology course. Areas of concentration are identified in the career options reporting system with each LEA designating the career and technical education areas of concentration offered in their school system each year. The following computer/technology courses can be used to meet this requirement.

Course	Credit
Computer/Technology Literacy	1
Computer Applications or Business Computer Applications	1
Computer Architecture	1
Computer Science I, II	1 each
Computer Systems and Networking I, II	1 each
Desktop Publishing	1
Digital Graphics and Animation	1/2
Multimedia Presentations	1/2 or 1
Web Mastering or Web Design	1/2
Independent Study in Technology Applications	1
Word Processing	1
Telecommunications	1/2
Introduction to Business Computer Applications	1
Technology Education Computer Applications	1
Advanced Technical Drafting	1
Computer Electronics I, II	1 each
Database Programming with PL/SQL	1
Java Programming	1
Database Design and Programming	1/2
Digital Media I, II	1 each

5. Academic Endorsement

a. Graduating seniors who meet the requirements for a college and career diploma and satisfy the following

performance indicators shall be eligible for an academic endorsement to the college and career diploma.

i. Students graduating prior to 2011-2012 shall complete an academic area of concentration. Students graduating in 2011-2012 and beyond shall complete the following curriculum requirements.

NOTE: For courses indicated with *, an Advanced Placement (AP) or International Baccalaureate (IB) course designated in §2325 may be substituted.

(a). English—4 units:

(i). English I;

(ii). English II;

(iii). English III*;

(iv). English IV*.

(b). Mathematics—4 units:

(i). Algebra I or Algebra I-Pt. 2;

(ii). Geometry;

(iii). Algebra II;

(iv). The remaining unit shall come from the following:

[a]. Advanced Math—Pre-Calculus;

[b]. Advanced Math—Functions and Statistics;

[c]. Pre-Calculus*;

[d]. Calculus*;

[e]. Probability and Statistics*;

[f]. Discrete Mathematics; or

[g]. AP Calculus BC.

(c). Science—4 units:

(i). Biology*;

(ii). Chemistry*;

(iii). 1 units of advanced science from the following courses: Biology II*, Chemistry II*, Physics*, or Physics II*;

(iv). 1 additional science course.

(d). Social Studies—4 units:

(i). Civics* (1 unit) or 1/2 unit of Civics* and 1/2 unit of Free Enterprise;

NOTE: Students entering the ninth grade in 2011-2012 and beyond must have one unit of Civics with a section on Free Enterprise.

(ii). U.S. History*;

(iii). 1 unit from the following:

[a]. World History*;

[b]. World Geography*;

[c]. Western Civilization*;

[d]. AP European History;

(iv). 1 unit from the following:

[a]. World History*;

[b]. World Geography*;

[c]. Western Civilization;

[d]. AP European History;

[e]. Law Studies;

[f]. Psychology;

[g]. Sociology; or

[h]. African American Studies.

(e). Health Education—1/2 unit:

(i). JROTC I and II may be used to meet the Health Education requirement. Refer to §2347.

(f). Physical Education—1 1/2 units:

(i). shall be Physical Education I and Physical Education II, or Adapted Physical Education for eligible special education students.

NOTE: The substitution of JROTC is permissible

(g). Foreign Language—2 units:

(i). shall be 2 units in the same foreign language.

(h). Arts—1 unit:

(i) shall be 1 unit from (§2333), Dance (§2337), Media Arts (§2354), Music (§2355), Theatre Arts, (§2369), or Fine Arts Survey;

(i) Electives—3 units.

ii. Assessment Performance Indicator

(a) Students graduating prior to 2013-2014 shall pass all four components of GEE with a score of *Basic* or above, or one of the following combinations of scores with the English language arts score at *Basic* or above:

(i) one *Approaching Basic*, one *Mastery* or *Advanced*, *Basic* or above in the remaining two; or

(ii) two *Approaching Basic*, two *Mastery* or above.

(b) Students graduating in 2013-2014 and beyond shall achieve a score of *Good* or *Excellent* on each of the following EOC tests:

(i). English II and English III;

(ii). Algebra I and Geometry;

(iii). Biology and U.S. History.

NOTE: Transfer students need only meet this requirement for the EOC tests they are required to take according to the transfer rules found in §1829 of Bulletin 118.

iii. Students shall complete one of the following requirements:

(a). senior project;

(b). one Carnegie unit in an AP course and attempt the AP exam;

(c). one Carnegie unit in an IB course and attempt the IB exam; or

(d). three college hours of non-remedial credit in:

(i). mathematics;

(ii). social studies;

(iii). science;

(iv). foreign language; or

(v). English language arts.

iv. Students shall meet the current minimum grade-point average requirement for the TOPS Opportunity Award.

v. Students shall achieve an ACT composite score of at least 23 or the SAT equivalent.

6. Career/Technical Endorsement

a. Students who meet the requirements for a college and career diploma and satisfy the following performance indicators shall be eligible for a career/technical endorsement to the college and career diploma.

i. Students graduating prior to 2011-2012 shall meet the current course requirements for the TOPS Opportunity Award or the TOPS Tech Award. Students graduating in 2011-2012 and beyond shall meet the course requirements for the Louisiana Core 4 Curriculum.

ii. Students shall complete the career area of concentration.

iii. Assessment Performance Indicator

(a). Students graduating prior to 2009-2010 shall pass the English language arts, mathematics, science, and social studies components of the GEE at the *Approaching Basic* level or above. Students graduating in 2009-2010 and

beyond prior to 2013-2014 shall pass all four components of the GEE with a score of basic or above or one of the following combinations with the English language arts score at basic or above:

(i). one *Approaching Basic*, one *Mastery* or *Advanced*, and *Basic* or above in the remaining two;

(ii). two *Approaching Basic*, two *Mastery* or above.

(b) Students graduating in 2013-2014 and beyond shall achieve a score of *Good* or *Excellent* on each of the following EOC tests:

(i). English II and English III;

(ii). Algebra I and Geometry;

(iii). Biology and U.S. History.

NOTE: Transfer students need only meet this requirement for the EOC tests they are required to take according to the transfer rules found in §1829 of Bulletin 118.

iv. Students shall complete a minimum of 90 work hours of work-based learning experience related to the student's area of concentration or senior project related to student's area of concentration with 20 hours of related work-based learning and mentoring and complete one of the following requirements:

(a). industry-based certification in student's area of concentration from the list of industry-based certifications approved by BESE; or

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

v. Students shall achieve a minimum GPA of 2.5.

vi. Students graduating prior to 2008-2009 shall achieve the current minimum ACT composite score (or SAT equivalent) for the TOPS Opportunity Award or the TOPS Tech Award. Students graduating in 2008-2009 and beyond shall achieve a minimum ACT composite score (or SAT equivalent) of 20 or the state ACT average (whichever is higher) or the silver level on the WorkKeys Assessment.

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 36:1486 (July 2010), LR 37:547 (February 2011), LR 37:1128 (April 2011), LR 37:2129 (July 2011), LR 37:2132 (July 2011), LR 37:3193 (November 2011), LR 38:754, 761 (March 2012), LR 38:1001 (April 2012).

§2319. The Career Diploma

A. - B.7.a. …

C. Minimum Course Requirements

1. The minimum course requirements for a career diploma shall be the following.

a. English—4 units:

i. English I;

ii. English II;

iii. the remaining units shall come from the following:

(a). Technical Reading and Writing;

(b). Business English;

(c). Business Communications;

(d). Using Research in Careers (1/2 credit);

(e). American Literature (1/2 credit);

(f). Film in America (1/2 credit);

(g). English III;

(h). English IV;

(i). Senior Applications in English; or

(j). a course developed by the LEA and approved by BESE.

b. Mathematics—4 units:

i. Algebra I (1 unit), Applied Algebra I (1 unit), or Algebra I-Pt. 1 and Algebra I-Pt. 2 (2 units);

ii. The remaining units shall come from the following:

(a). Geometry or Applied Geometry;

(b). Technical Math;

(c). Medical Math;

(d). Applications in Statistics and Probability;

(e). Financial Math;

(f). Math Essentials;

(g). Algebra II;

(h). Advanced Math—Pre-Calculus;

(i). Discrete Mathematics; or

(j). course(s) developed by the LEA and approved by BESE.

c. Science—3 units:

i. 1 unit of Biology;

ii. 1 unit from the following physical science cluster:

(a). Physical Science;

(b). Integrated Science;

(c). Chemistry I;

(d). ChemCom;

(e). Physics I;

(f). Physics of Technology I;

iii. 1 unit from the following courses:

(a). Food Science;

(b). Forensic Science;

(c). Allied Health Science;

(d). Basic Body Structure and Function;

(e). Basic Physics with Applications;

(f). Aerospace Science;

(g). Earth Science;

(h). Agriscience II;

(i). Physics of Technology II;

(j). Environmental Science;

(k). Anatomy and Physiology;

(l). Animal Science;

(m). Biotechnology in Agriculture;

(n). Environmental Studies in Agriculture;

(o). Health Science II;

(p). EMT—Basic;

(q). an additional course from the physical science cluster; or

(r). course(s) developed by the LEA and approved by BESE;

iv. students may not take both Integrated Science and Physical Science;

v.Agriscience I is a prerequisite for Agriscience II and is an elective course.

d. Social Studies—3 units:

i. U.S. History;

ii. Civics (1 unit) or 1/2 unit of Civics and 1/2 unit of Free Enterprise;

NOTE: Students entering the ninth grade in 2011-2012 and beyond must have one unit of Civics with a section on Free Enterprise.

iii. one of the following. The remaining unit shall come from the following:

(a). Child Psychology and Parenthood Education;

(b). Law Studies;

(c). Psychology;

(d). Sociology;

(e). World History;

(f). World Geography;

(g). Western Civilization;

(h). Economics;

(i). American Government;

(j). African American Studies; or

(k). a course developed by the LEA and approved by BESE.

e. Health Education—1/2 unit:

i. JROTC I and II may be used to meet the Health Education requirement. Refer to §2347.

f. Physical Education—1 1/2 units:

i. shall be Physical Education I and Physical Education II, or Adapted Physical Education for eligible special education students;

ii. a maximum of 4 units of Physical Education may be used toward graduation.

NOTE: The substitution of JROTC is permissible.

g. Career and Technical Education—7 credits:

i. Education for Careers, ~~or~~ Journey to Careers, or JAG;

ii. six credits required for a career area of concentration.

h. Total—23 units.

C.2. - 3. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4; R.S. 17:183.2; R.S. 17:183.3; R.S. 17:274; R.S. 17:274.1; R.S. 17:395.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 31:2211 (September 2005), LR 31:3070 (December 2005), LR 31:3072 (December 2005), LR 32:1414 (August 2006), LR 33:429 (March 2007), LR 33:432 (March 2007), LR 33:2050 (October 2007), LR 33:2354 (November 2007), LR 33:2601 (December 2007), LR 34:1607 (August 2008), LR 35:1230 (July 2009), LR 35:1876 (September 2009), LR 35:2321 (November 2009), LR 35:2750 (December 2009), LR 36:1490 (July 2010), LR 37:548 (February 2011), LR 37:1130 (April 2011), LR 37:2130 (July 2011), LR 37:3197 (November 2011), LR 38:761 (March 2012), LR 38:1005 (April 2012).

Catherine R. Pozniak
Executive Director

1204#026

RULE

Board of Elementary and Secondary Education

Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act—Regulations for Students with Disabilities
(LAC 28:XLIII.540, 541, 542, and 543)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has adopted revisions to *Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act:* Subpart 1. Regulations for Students with Disabilities, §540. Definitions, §541. Use of Seclusion, §542. Physical Restraint, §543. Restrictions on the Use of Seclusion or Physical Restraint. The Rule was developed in response to Act 328 of the 2011 Regular Session of the Louisiana Legislature. The Act requires the state Board of Elementary and Secondary Education to approve rules related to the use of seclusion and restraint for students with exceptionalities in local education agencies in the state. The rule includes definitions, how seclusion will be used and who will determine the use of seclusion. The rule defines the attributes of a seclusion room. The use of physical restraint is described. Restrictions on the use of seclusion and physical restraint are included in the rule. Notification of parents or legal guardians and the school district's director or supervisor of special education is required when seclusion or restraint is used. Documentation of the use of seclusion or restraint is necessary, and if a student is involved in five incidents in a school year, the student's individualized education plan team shall review and revise the plan if necessary. School districts are required to adopt written guidelines and procedures concerning reporting requirements, notification to parents and school officials and explanations or methods of physical restraint and school employee training. The local school district will report instances where seclusion or physical restraint are used to the Department of Education, which will maintain a database of all reported instances of seclusion and physical restraint.

Title 28
EDUCATION
Part XLIII. Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act
Subpart 1. Regulations for Students with Disabilities
Chapter 5. Procedural Safeguards
Subchapter B. Discipline Procedures for Students with Disabilities

§540. Definitions

A. As used in these Sections 541 through 543:

1. *Imminent Risk of Harm*—an immediate and impending threat of a person causing substantial injury to self or others;

2. *Mechanical Restraint*—

a. the application of any device or object used to limit a person's movement;

b. does not include:

i. a protective or stabilizing device used in strict accordance with the manufacturer's instructions for proper use and which is used in compliance with orders issued by an appropriately licensed health care provider;

ii. any device used by a duly licensed law enforcement officer in the execution of his official duties;

3. *Physical Restraint*—

a. bodily force used to limit a person's movement;

b. does not include:

i. consensual, solicited, or unintentional contact;

ii. holding of a student, by a school employee, for less than five minutes in any given hour or class period for the protection of the student or others;

iii. holding of a student, by one school employee, for the purpose of calming or comforting the student, provided the student's freedom of movement or normal access to his or her body is not restricted;

iv. minimal physical contact for the purpose of safely escorting a student from one area to another; or

v. minimal physical contact for the purpose of assisting the student in completing a task or response;

4. *Positive Behavior Interventions and Support*—a systematic approach to embed evidence-based practices and data-driven decision making when addressing student behavior in order to improve school climate;

5. *Seclusion*—a procedure that isolates and confines a student in a separate room or area until he or she is no longer an immediate danger to self or others;

6. *Seclusion Room*—a room or other confined area, used on an individual basis, in which a student is removed from the regular classroom setting for a limited time to allow the student the opportunity to regain control in a private setting and from which the student is involuntarily prevented from leaving;

7. *School Employee*—a teacher, paraprofessional, administrator, support staff member, or a provider of related services;

8. *Written Guidelines and Procedures*—the written guidelines and procedures adopted by a school's governing authority regarding appropriate responses to student behavior that may require immediate intervention.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:7(5)(b) and 17:416.21.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:1006 (April 2012).

§541. Use of Seclusion

A. Seclusion shall be used only:

1. for behaviors that involve an imminent risk of harm;

2. as a last resort when de-escalation attempts have failed and the student continues to pose an imminent threat to self or others.

B. Seclusion shall not be used to address behaviors such as general noncompliance, self-stimulation, and academic refusal. Such behaviors shall be responded to with less stringent and less restrictive techniques.

C. A seclusion room shall be used only as a last resort and when less restrictive measures, such as positive behavioral supports, constructive and non-physical de-escalation, and restructuring of a student's environment, have failed to stop a student's actions that pose an imminent risk of harm.

D. A student shall be placed in a seclusion room only by a school employee who uses accepted methods of escorting a student to a seclusion room, placing a student in a seclusion room, and supervising a student while he or she is in the seclusion room.

E. Only one student may be placed in a seclusion room at any given time, and the school employee supervising the student must be able to see and hear the student the entire time the student is placed in the seclusion room.

F. A seclusion room shall:

1. be free of any object that poses a danger to the student placed in the room;

2. have an observation window and be of a size that is appropriate for the student's size, behavior, and chronological and developmental age; and

3. have a ceiling height and heating, cooling, ventilation, and lighting systems comparable to operating classrooms in the school.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:7(5)(b) and 17:416.21.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:1007 (April 2012).

§542. Physical Restraint

A. Physical restraint shall be used only:

1. when a student's behavior presents a threat of imminent risk of harm to self or others and only as a last resort to protect the safety of self and others;

2. to the degree necessary to stop dangerous behavior; and

3. in a manner that causes no physical injury to the student, results in the least possible discomfort, and does not interfere in any way with a student's breathing or ability to communicate with others.

B. No student shall be subjected to any form of mechanical restraint.

C. No student shall be physically restrained in a manner that places excessive pressure on the student's chest or back or that causes asphyxia.

D. A student shall be physically restrained only in a manner that is directly proportionate to the circumstances and to the student's size, age, and severity of behavior.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:7(5)(b) and 17:416.21.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:1007 (April 2012).

§543. Restrictions on the Use of Seclusion or Physical Restraint

A. Seclusion and physical restraint shall not be used as a form of discipline or punishment, as a threat to control, bully, or obtain behavioral compliance, or for the convenience of school personnel.

B. No student shall be subjected to unreasonable, unsafe, or unwanted use of seclusion or physical restraint.

C. A student shall not be placed in seclusion or physically restrained if he or she is known to have any medical or psychological condition that precludes such action, as certified by a licensed health care provider in a written statement provided to the school in which the student is enrolled.

D. A student who has been placed in seclusion or has been physically restrained shall be monitored continuously. Such monitoring shall be documented at least every 15 minutes and adjustments made accordingly, based upon observations of the student's behavior.

E. A student shall be removed from seclusion or released from physical restraint as soon as the reasons for justifying such action have subsided.

F. The parent or other legal guardian of a student who has been placed in seclusion or physically restrained shall be notified as soon as possible. The school shall document all efforts, including conversations, phone calls, electronic communications, and home visits, to notify the parent of a student who has been placed in seclusion or physically restrained.

G. The director or supervisor of special education shall be notified any time a student is placed in seclusion or is physically restrained.

H. A school employee who has placed a student in seclusion or who has physically restrained a student shall document and report each incident in accordance with the policies adopted by the school's governing authority. Such report shall be submitted to the school principal not later than the school day immediately following the day on which the student was placed in seclusion or physically restrained and a copy shall be provided to the student's parent or legal guardian.

I. If a student is involved in five incidents in a single school year involving the use of physical restraint or seclusion, the student's Individualized Education Plan team shall review and revise the student's behavior intervention plan to include any appropriate and necessary behavioral supports.

J. The documentation compiled for a student who has been placed in seclusion or has been physically restrained and whose challenging behavior continues or escalates shall be reviewed at least once every three weeks.

K. The governing authority of each public elementary and secondary school shall adopt written guidelines and procedures regarding:

1. reporting requirements and follow-up procedures;
2. notification requirements for school officials and a student's parent or other legal guardian; and
3. an explanation of the methods of physical restraint and the school employee training requirements relative to the use of restraint.

L. The guidelines and procedures shall be provided to all school employees and every parent of a child with an exceptionality.

M. The governing authority of each public elementary and secondary school shall report all instances where seclusion or physical restraint is used to address student behavior to the Department of Education.

N. The Department of Education shall maintain a database of all reported incidents of seclusion and physical restraint of students with exceptionalities and shall disaggregated the data for analysis by school, student age, race, ethnicity, and gender, student disability, where applicable, and any involved school employees.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:7(5)(b) and 17:416.21.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:1007 (April 2012).

Catherine R. Pozniak
Executive Director

1204#024

RULE

Board of Elementary and Secondary Education

Nonpublic Bulletin 741—Louisiana Handbook
for Nonpublic School Administrators
(LAC 28:LXXIX.119 and 2109)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 741—Louisiana Handbook for Nonpublic School Administrators:* §119. Written Policies and §2109. High School Graduation Requirements. These policy revisions require nonpublic schools to have written policies and/or regulations to address harassment, bullying, and cyberbulling, and add three courses to the list of social studies courses meeting graduation requirements. These revisions were requested by districts and schools.

Title 28
EDUCATION
Part LXXIX. Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators—Programs of Study

Chapter 1. Operation and Administration

§119. Written Policies

A. Each school system and/or independent school shall have written policies and/or regulations governing the general operation of the school.

B. Each school system and/or independent school shall have written policies and/or regulations to address harassment, bullying, and cyberbulling.

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 29:2343 (November 2003), amended LR 31:3074 (December 2005), LR 38:1008 (April 2012).

Chapter 21. Curriculum and Instruction

Subchapter C. Secondary Schools

§2109. High School Graduation Requirements

A. - D.4. …

E. For incoming freshmen in 2009-2010 and beyond who are completing the Louisiana Core 4 Curriculum, the minimum course requirements shall be the following:

1. English—4 units, shall be English I, II, III, and IV;
2. mathematics—4 units, shall be:
   a. algebra I (1 unit) or algebra I-Pt. 2;
   b. geometry;
   c. algebra II;
   d. the remaining unit shall come from the following: financial mathematics, math essentials, advanced

mathematics-pre-calculus, advanced mathematics-functions and statistics, pre-calculus, calculus, probability and statistics, discrete mathematics, AP Calculus BC, or a locally-initiated elective approved by BESE as a math substitute;

3. science—4 units, shall be:

a. biology;

b. chemistry;

c. two units from the following courses: physical science, integrated science, physics I, physics of technology I, aerospace science, biology II, chemistry II, earth science, environmental science, physics II, physics of technology II, agriscience II, anatomy and physiology, or a locally initiated elective approved by BESE as a science substitute;

i. students may not take both integrated science and physical science.

ii. agriscience I is a prerequisite for agriscience II and is an elective course;

4. social studies—4 units, shall be:

a. 1 unit of civics or AP American government, or 1/2 unit of civics or AP American Government and 1/2 unit of free enterprise;

b. 1 unit of U.S. history;

c. 1 unit from the following: world history, world geography, western civilization, or AP European history;

d. 1 unit from the following: world history, world geography, western civilization, AP European history, law studies, psychology, sociology, African American studies, economics, world religions, history of religion, or religion I, II, III, or IV;

5. health and physical education—2 units;

6. foreign language—2 units, shall be 2 units from the same foreign language or 2 speech courses;

7. arts—1 unit, shall be one unit of art (§2305), dance (§2309), media arts (§2324), music (§2325), theatre, or fine arts survey;

NOTE: Students may satisfy this requirement by earning half credits in two different arts courses.

8. electives—3 units;

9. total—24 units.

F. - F.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 29:2351 (November 2003), amended LR 30:2776 (December 2004), LR 31:3081 (December 2005), LR 34:2099 (October 2008), LR 36:2849 (December 2010), LR 37:2142, 2144 (July 2011), repromulgated LR 37:2390 (August 2011), LR 37:2597 (September 2011), LR 38:1008 (April 2012).

Catherine R. Pozniak
Executive Director

1204#025

RULE

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

OECD Requirements—Export Shipments of Spent Lead-Acid Batteries (LAC 33:V.109, 1101, 1113, 1127, 1301, 1516, 1531 and 4145)(HW108ft)

Editor's Note: The following Section is being repromulgated to correct a submission error. The original Rule can be viewed in its entirety on pages 781-790 of the March 20, 2012 edition of the *Louisiana Register*.

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Hazardous Waste regulations, LAC 33:V.109, 1101, 1113, 1127, 1301, 1516, 1531 and 4145 (HW108ft).

This Rule is identical to federal regulations found in 40 CFR 262.10(d), 40 CFR 262.55, 40 CFR 262.58(a)-(b), 40 CFR 262.80(a)-262.89(d), 40 CFR 263.10(d), 40 CFR 264.12(a)(2), 40 CFR 264.71(a)(3) and (d), 40 CFR 265.12(a)(2), 40 CFR 265.71(a)(3) and (d) and 40 CFR 266.80(a)Table, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3985 or Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the Rule. This Rule will be promulgated in accordance with the procedures in R.S. 49:953(F)(3) and (4).

This Rule amends exisiting regulations regarding hazardous waste exports from and imports into the United States. This action is needed in order for the state hazardous waste regulations to maintain equivalency with the federal requlations. The basis and rationale for this Rule is to mirror the federal regulations. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33
ENVIRONMENTAL QUALITY
Part V. Hazardous Waste and Hazardous Materials
Subpart 1. Department of Environmental Quality—Hazardous Waste
Chapter 1. General Provisions and Definitions
§109. Definitions

For all purposes of these rules and regulations, the terms defined in this Chapter shall have the following meanings, unless the context of use clearly indicates otherwise.

* * *

Competent Authorities—the regulatory authorities of concerned countries having jurisdiction over *transboundary movements* of waste destined for *recovery operations.*

* * *

Consignee—Repealed.

* * *

Country of Export—any designated *OECD* member country listed in LAC 33:V.1113.I.1.a from which a *transboundary movement* of *hazardous waste* is planned to be initiated, or is initiated.

Country of Import—any designated *OECD* member country listed in LAC 33:V.1113.I.1.a to which a *transboundary movement* of *hazardous waste* is planned, or takes place, for the purpose of submitting the waste to *recovery operations* therein.

* * *

Country of Transit—any designated *OECD* member country listed in LAC 33:V.1113.I.1.a and b other than the exporting or importing country across which a *transboundary movement* of *hazardous waste* is planned or takes place.

* * *

Exporter—the person under the jurisdiction of the *country of export* who has, or will have at the time of the *transboundary movement*, possession or other forms of legal control of the waste and who proposes *transboundary movement* of the *hazardous waste* for the ultimate purpose of submitting it to *recovery operations*. When the United States (U.S.) is the *country of export*, *exporter* is interpreted to mean a person domiciled in the United States.

* * *

Exporting Country—any designated *OECD* member country listed in LAC 33:V.1113.I.1.a from which a *transboundary movement* of waste is planned or has commenced.

* * *

Importer—the person to whom possession or other form of legal control of the waste is assigned at the time the waste is received in the *country of import*.

Importing Country—any designated *OECD* member country listed in LAC 33:V.1113.I.1.a to which a *transboundary movement* of waste is planned or takes place for the purpose of submitting the waste to *recovery operations* therein.

* * *

Notifier—Repealed.

* * *

OECD—Organization for Economic Cooperation and Development.

* * *

Organization for Economic Cooperation and Development (OECD) Area—all land or marine areas under the national jurisdiction of any *OECD* member country listed in LAC 33:V.1113.I.1.a. When the regulations refer to shipments to or from an *OECD* country, this means *OECD* area.

* * *

Recognized Trader—a person who, with appropriate authorization of *concerned countries*, acts in the role of principal to purchase and subsequently sell waste; this person has legal control of such waste from time of purchase to time of sale; such a person may act to arrange and facilitate *transboundary movements* of waste destined for *recovery operations.*

* * *

Recovery Operations—activities leading to resource recovery, recycling, reclamation, direct reuse or alternative uses, which include the following operations.

Table 1	
Code	**Recovery Operations**
R1	Use as a fuel (other than in direct incineration) or other means to generate energy
R2	Solvent reclamation/regeneration
R3	Recycling/reclamation of organic substances that are not used as solvents
R4	Recycling/reclamation of metals and metal compounds
R5	Recycling/reclamation of other inorganic materials
R6	Regeneration of acids or bases
R7	Recovery of components used for pollution abatement
R8	Recovery of components used from catalysts
R9	Used oil re-refining or other reuses of previously used oil
R10	Land treatment resulting in benefit to agriculture or ecological improvement
R11	Uses of residual materials obtained from any of the operations numbered R1-R10
R12	Exchange of wastes for submission to any of the operations numbered R1-R11
R13	Accumulation of material intended for any operation numbered R1-R12

* * *

Transboundary Movement—any movement of waste from an area under the national jurisdiction of one OECD member country to an area under the national jurisdiction of another OECD member country.

* * *

Transfrontier Movement—Repealed.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790, 791 (November 1988), LR 15:378 (May 1989), LR 15:737 (September 1989), LR 16:218, 220 (March 1990), LR 16:399 (May 1990), LR 16:614 (July 1990), LR 16:683 (August 1990), LR 17:362 (April 1991), LR 17:478 (May 1991), LR 18:723 (July 1992), LR 18:1375 (December 1992), repromulgated by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 19:626 (May 1993), amended LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:814 (September 1996), LR 23:564 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:655 (April 1998), LR 24:1101 (June 1998), LR 24:1688 (September 1998), LR 25:433 (March 1999), repromulgated LR 25:853 (May 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:269 (February 2000), LR 26:2465 (November 2000), LR 27:291 (March 2001), LR 27:708 (May 2001), LR 28:999 (May 2002), LR 28:1191 (June 2002), LR 29:318 (March 2003); amended by the Office of the Secretary, Legal Affairs Division, LR 31:2452 (October 2005), LR 31:3116 (December 2005), LR 32:606 (April 2006), LR 32:822 (May 2006), LR 33:1625 (August 2007), LR 33:2098 (October 2007), LR 34:71 (January 2008), LR 34:615 (April 2008), LR 34:1009 (June 2008), LR 34:1894 (September 2008), LR 34:2396 (November 2008), LR

36:1235 (June 2010), repromulgated LR 36:1535 (July 2010), amended LR 36:2554 (November 2010), LR 38:781 (March 2012), repromulgated LR 38:1009 (April 2012).

Herman Robinson, CPM
Executive Counsel

1204#034

RULE

Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity

Direct Rollovers (LAC 58:V.Chapter 5)

The Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans ("fund"), pursuant to R.S. 11:363(F), has amended LAC 58:V. The restatement and amendment revises Section 501 in Chapter 5 to update the direct rollover requirements under the Internal Revenue Code of 1986 and repeals Sections 503 and 505 of Chapter 5. All currently stated rules of the fund, unless amended herein, shall remain in full force and effect.

Title 58
RETIREMENT
Part V. Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity
Chapter 5. Direct Rollovers

§501. Requirements

A. Notwithstanding any provision to the contrary, the fund shall permit a direct rollover of an eligible rollover distribution to an eligible retirement plan in accordance with section 401(a)(31) of the Internal Revenue Code of 1986 and the terms set forth herein, upon properly completing and filing the appropriate administrative forms.

B. Definitions

Direct Rollover—a payment by this fund to the eligible retirement plan specified by the distributee.

Distributee—includes a member or former member. in addition, the member's or former member's surviving spouse and the member's or former member's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in section 414(p) of the code, are distributees with regard to the interest of the spouse or former spouse. A distributee also includes, for distributions on and after January 1, 2010, a non-spouse beneficiary properly designated by the member.

Eligible Retirement Plan—an individual retirement account described in section 408(a) of the code, an individual retirement annuity described in section 408(b) of the code, an annuity plan described in section 403(a) of the code, or a qualified trust described in section 401(a) of the code, that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity. An eligible retirement plan also shall include an annuity contract described in Code §403(b) and an eligible plan under code §457(b), which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this plan. Effective for distributions made after January 1, 2008, an eligible retirement plan shall also include a Roth Individual Retirement Account or Roth Individual Retirement Annuity described in section 408A of the code.

a. In the case of a non-spouse beneficiary, an eligible retirement plan is an individual retirement account or annuity described in section 408(a) of the code, or section 408(b) of the code ("IRA") or, for distributions made after December 31, 2009, a Roth Individual Retirement Account or annuity described in section 408A of the code, that is established on behalf of the designated beneficiary and that will be treated as an inherited IRA pursuant to the provisions of section 402(c)(11) of the code.

Eligible Rollover Distribution—any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include:

a. any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of 10 years or more;

b. any distribution to the extent such distribution is required under section 401(a)(9) of the code; and

c. any distribution totaling less than $200 during the year.

C. Notice. A distributee entitled to an eligible rollover distribution must receive a written explanation of his/her right to a direct rollover, the tax consequences of not making a direct rollover, and, if applicable, any available special income tax elections and consequences. The notice must be provided within a reasonable period of time before the date of distribution of the pension benefit. The direct rollover notice must be provided to all distributees, unless the total amount of the distribution during the calendar year is expected to be less than $200.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 19:742 (June 1993), amended LR 22:708 (August 1996), LR 38:1011 (April 2012).

§503. Distribution

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 19:742 (June 1993), amended LR 22:708 (August 1996), repealed LR 38:1011 (April 2012).

§505. Distribution to Beneficiaries

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 19:743 (June 1993), amended LR 22:709 (August 1996), repealed LR 38:1011 (April 2012).

Louis Robein
Fund Attorney

1204#041

RULE

Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity

Tax Qualification Provisions
(LAC 58:V.2003 and 2005)

The Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans ("fund"), pursuant to R.S. 11:363(F), has amended LAC 58:V. The restatement and amendment adds Section 2003 to Chapter 20 to update and clarify federal tax qualification requirements under the Internal Revenue Code of 1986. All currently stated rules of the fund, unless amended herein, shall remain in full force and effect.

Title 58
RETIREMENT
Part V. Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity
Chapter 20. Tax Qualification Provisions
§2003. Actuarial Equivalence

A. The New Orleans Firefighters Pension and Relief Fund shall be a tax-qualified governmental plan as provided in the Internal Revenue Code of 1986, as amended. In accordance with the requirements of the Internal Revenue Code, the following provisions shall apply to the fund.

1. The term *actuarial equivalence* or terms of similar import, wherever used, means a benefit of equivalent actuarial value determined by using the mortality assumptions and interest rates described herein.

a. The mortality assumptions will be based upon the 1971 Group Annuity Mortality Table for males, with male rates set back six years in age for females, at 7 percent interest.

b. If payment is in the form of a lump sum distribution or other similar form of distribution for a period less than the life expectancy, the amount of the distribution shall be calculated based on the 1994 UP at 7.5 percent interest.

c. For purposes of determining actuarial equivalence, the assumptions used as the basis for actuarial equivalence shall be reviewed periodically by the Board of Trustees and updated and amended if appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 38:1012 (April 2012).

§2005. Military Service

A. Notwithstanding any provision of this plan to the contrary, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with section 414(u) of the Internal Revenue Code. To the extent applicable, the provisions of IRC section 401(a)(37) shall apply.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 38:1012 (April 2012).

Louis Robein
Fund Attorney

1204#042

RULE

Office of the Governor
Board of Architectural Examiners

Continuing Education (LAC 46:I.1315)

Under the authority of R.S. 37:144(C) and in accordance with the provisions of R.S. 49:951 et seq., the Board of Architectural Examiners amended LAC 46:I.1315 pertaining to the mandatory continuing education which an architect must complete to renew his or her architectural license. The amended rules make the existing rules regarding continuing education coincide with recently adopted National Conference of Architectural Registration Boards Resolution 2011-1. The purpose of the adopted rules is to make the Louisiana rules for continuing education uniform with the rules for continuing education throughout the country.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part I. Architects
Chapter 13. Administration
§1315. Continuing Education

A. Purpose and Scope. These rules provide for a continuing education program to insure that all architects remain informed of those technical and professional subjects necessary to safeguard life, health, and promote the public welfare. These rules shall apply to all architects practicing architecture in this state.

B. Exemptions. An architect shall not be subject to these requirements if:

1. a newly registered architect during his or her initial year of registration;

2. the architect has been granted emeritus or other similar honorific but inactive status by the board, or an emeritus status architect as defined by board rule §1105.E;

3. the architect otherwise meets all renewal requirements and is called to active military service, has a serious medical condition, or can demonstrate to the board other like hardship, then upon the board's so finding, the architect may be excused from some or all of these requirements.

C. Definitions

AIA—the American Institute of Architects.

AIA/CES—the continuing education system developed by *AIA* to record professional learning as a mandatory requirement for membership in the *AIA*.

ARE—the Architect Registration Examination prepared by the National Council of Architectural Registration Boards.

Board—the Louisiana State Board of Architectural Examiners, 9625 Fenway Avenue, Suite B, Baton Rouge, LA 70809, telephone: (225) 925-4802, telecopier: 225-925-4804, website: http://www.lastbdarchs.com.

Continuing Education (CE)—continuing education is a post-licensure learning that enables a registered architect to increase or update knowledge of and competence in technical and professional subjects related to the practice of architecture to safeguard the public's health, safety, and welfare.

Continuing Education Hour (CEH)—one continuous instructional hour (50 to 60 minutes of contact) spent in structured educational activities intended to increase or update the architect's knowledge and competence in health, safety, and welfare subjects. If the provider of the structured educational activities prescribes a customary time for completion of such an activity, then such prescribed time shall, unless the board finds the prescribed time to be unreasonable, be accepted as the architect's time for continuing education hour purposes irrespective of actual time spent on the activity.

Health, Safety, and Welfare Subjects—technical and professional subjects that the board deems appropriate to safeguard the public and that are within the following enumerated areas necessary for the proper evaluation, design, construction, and utilization of buildings and the built environment:

a. legal—laws, codes, zoning, regulations, standards, life safety, accessibility, ethics, insurance to protect owners and public;

b. building systems—structural, mechanical, electrical, plumbing, communications, security, fire protection;

c. environmental—energy efficiency, sustainability, natural resources, natural hazards, hazardous materials, weatherproofing, insulation;

d. occupant comfort—air quality, lighting, acoustics, ergonomics;

e. materials and methods—construction systems, products, finishes, furnishings, equipment;

f. preservation—historic, reuse, adaption;

g. pre-design—land use analysis, programming, site selection, site and soils analysis, surveying;

h. design—urban planning, master planning, building design, site design, interiors, safety and security measures;

i. construction documents—drawings, specifications, delivery methods;

j. construction contract administration: contracts, bidding, contract negotiations.

NCARB—the National Council of Architectural Registration Boards.

Non-Resident Architect—an architect registered by the board and residing outside Louisiana.

Resident Architect—an architect residing in this state.

Sponsor—an individual, organization, association, institution or other entity which offers an educational activity for the purpose of fulfilling the continuing education requirements of these rules.

Structured Educational Activities—educational activities in which at least 75 percent of an activity's content and instructional time must be devoted to health, safety, and welfare subjects related to the practice of architecture, including courses of study or other activities under the areas identified as health, safety and welfare subjects and provided by qualified individuals or organizations whether delivered by direct contact or distance learning methods.

D. Continuing Education Requirements

1. Beginning with license renewals effective January 1, 1999, all architects must show compliance with the educational requirements of these rules as a condition for renewing registration.

2. In addition to all other requirements for registration renewal, an architect must complete a minimum of 12 continuing education hours each calendar year or be exempt from these continuing education requirements as provided above. Failure to comply with these requirements may result in non-renewal of the architect's registration or other discipline as set forth below.

3. Continuing Education Hours. Continuing education hours must be completed in health, safety, and welfare subjects acquired in structured educational activities. Continuing education hours may be acquired at any location. Excess continuing education hours may not be credited to a future calendar year.

4. If an architect is being re-registered after having been unregistered then, in addition to all other requirements, the architect must have acquired that number of total continuing education hours that would have been required if registration had been regularly renewed.

E. Acceptable Educational Activities

1. Credit will be allowed only for continuing education activities in areas which:

a. directly safeguard the public's health, safety, and welfare; and

b. provide individual participant documentation from a person other than the participant for record keeping and reporting.

2. Acceptable continuing educational activities in health, safety, and welfare subjects include the following:

a. attending professional or technical health, safety, and welfare subject seminars, lectures, presentations, courses, or workshops offered by a professional or technical organization (AIA, National Fire Protection Association, Concrete Standards Institute, NCARB, etc.), insurer, or manufacturer;

b. successfully completing health, safety, and welfare subject tutorials, short courses, correspondence courses, televised courses, or video-taped courses offered by a provider mentioned in the preceding Subparagraph;

c. successfully completing health, safety, and welfare subject monographs or other self-study courses such as those sponsored by NCARB or a similar organization which tests the architect's performance;

d. making professional or technical health, safety, and welfare subject presentations at meetings, conventions or conferences;

e. teaching or instructing health, safety, and welfare subject courses;

f. authoring a published paper, article or book;

g. successfully completing college or university sponsored courses; and

h. service upon NCARB committees dealing with health, safety, and welfare subjects.

3. Continuing educational activities need not take place in Louisiana, but may be acquired at any location.

4. All continuing education activities shall:

a. have a clear purpose and objective;

b. be well organized and provide evidence of pre-planning;

c. be presented by persons who are well qualified by education or experience in the field being taught;

d. provide individual participant documentation from a person other than the participant for record keeping and reporting; and

e. shall not focus upon the sale of any specific product or service offered by a particular manufacturer or provider.

F. Number of Continuing Education Hours Earned

1. Continuing education credits shall be measured in continuing education hours and shall be computed as follows.

a. Attending seminars, lectures, presentations, workshops, or courses shall constitute one continuing education hour for each contact hour of attendance.

b. Successfully completing tutorials, short courses, correspondence courses, televised or video-taped courses, monographs and other self-study courses shall constitute the continuing education hours recommended by the program sponsor.

c. Teaching or instructing a qualified seminar, lecture, presentation, or workshop shall constitute two continuing education hours for each contact hour spent in the actual presentation. Teaching credit shall be valid for teaching a seminar or course in its initial presentation only. Teaching credit shall not apply to full-time faculty at a college, university or other educational institution.

d. Authoring a published paper, article or book shall be equivalent of eight continuing education hours .

e. Successfully completing one or more college or university semester or quarter hours shall satisfy the continuing education hours for the year in which the course was completed.

2. Any health, safety, and welfare subject contained in the record of an approved professional registry will be accepted by the board as fulfilling the continuing education requirements of these rules. The board approves the AIA as a professional registry, and contact hours listed in health, safety, and welfare subjects in the AIA/CES transcript of continuing education activities will be accepted by the board for both resident and non-resident architects.

G. Reporting, Record Keeping and Auditing

1. An architect shall complete and submit forms as required by the board certifying that the architect has completed the required continuing education hours. The board requires that each architect shall complete the language on the renewal application pertaining to that architect's continuing education activities during the calendar year immediately preceding the license renewal period. Any untrue or false statement or the use thereof with respect to course attendance or any other aspect of continuing educational activity is fraud or misrepresentation and will subject the architect and/or program sponsor to license revocation or other disciplinary action.

2. To verify attendance each attendee shall obtain an attendance certificate from the program sponsor. Additional evidence may include but is not limited to attendance receipts, canceled checks, and sponsor's list of attendees (signed by a responsible person in charge of the activity). A log showing the activity claimed, sponsoring organization, location, duration, etc., should be supported by other evidence. Evidence of compliance shall be retained by the architect for two years after the end of the period for which renewal was requested.

3. The renewal applications or forms may be audited by the board for verification of compliance with these requirements. Upon request by the board, evidence of compliance shall be submitted to substantiate compliance of the requirements of these rules. The board may request further information concerning the evidence submitted or the claimed educational activity. The board has final authority with respect to accepting or rejecting continuing education activities for credit.

4. The board may disallow claimed credit. If the board disallows any continuing education hours, the architect shall have 60 days from notice of such disallowance either to provide further evidence of having completed the continuing education hours disallowed or to remedy the disallowance by completing the required number of continuing education hours (but such continuing education hours shall not again be used for the next calendar year). If the board finds, after proper notice and hearing, that the architect willfully disregarded these requirements or falsified documentation of required continuing education hours, the architect may be subject to disciplinary action in accordance with the board regulations.

5. Documentation of reported continuing education hours shall be maintained by the architect for six years from the date of award.

H. Pre-Approval of Programs

1. Upon written request, the board will review a continuing education program prior to its presentation provided all of the necessary information to do so is submitted in accordance with these rules. If the program satisfies the requirements of these rules, the board will pre-approve same.

2. A person seeking to obtain pre-approval of a continuing education program shall submit the following information:

a. program sponsor(s): name(s), address(es), and phone number(s);

b. program description: name, detailed description, length of instructional periods, and total hours for which credit is sought;

c. approved seminar topic: division(s) and topic(s) from the current list of approved seminar topics;

d. program instructor(s)/leader(s): name(s) of instructor(s)/ leader(s) and credential(s);

e. time and place: date and location of program; and

f. certification of attendance: sponsor's method for providing evidence of attendance to attendees.

3. Such information shall be submitted at least 30 calendar days in advance of the program so that the board may analyze and respond.

4. The sponsor of a pre-approved program may announce or indicate as follows:

"This course has been approved by the Louisiana State Board of Architectural Examiners for a maximum of _____ Continuing Education Hours."

I. Continuing Education Disciplinary Guidelines

1. The board sets forth below the normal discipline which will be imposed upon an architect who fails to fulfill the continuing education requirements required by the licensing law and these rules. The purpose of these guidelines is to give notice to architects of the discipline which will normally be imposed. In a particular case, the discipline imposed may be increased or decreased depending upon aggravating or mitigating factors.

2. Absent aggravating or mitigating circumstances, the following discipline shall be imposed for the following violations:

Violation	Discipline
1. Architect has hours but lacks in accepted setting or subject matter	Architect will be allowed 60 days to obtain needed hours. Architect will be audited next year.
2. Architect signs renewal, has obtained some, but not all, hours needed as of December 31	Fine of $750, and architect must obtain required hours before renewing. Architect will be audited annually next three years.
For a second offense within 5 years	Fine of $1,500, architect's license suspended for six months, and architect must obtain required hours before renewing. Architect will be audited annually next three years.
3. Architect signs renewal; architect has not obtained any continuing education hours and fails to do so within sixty (60) days.	Fine up to $5,000, and architect's license suspended until architect obtains necessary hours. Architect will be audited annually the next five years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners, LR 29:565 (April 2003), amended LR 33:2419 (November 2007), LR 38:1012 (April 2012).

Mary "Teeny" Simmons
Executive Director

1204#030

RULE

Department of Veterans Affairs
Veterans Affairs Commission

Veterans Affairs (LAC 4:VII.Chapter 9)

The Louisiana Department of Veterans Affairs has adopted new rules pertaining to the Office of the Secretary, in accordance with R.S. 36:781-786, and amended current rules pertaining to the Veterans Affairs Commission, the State Aid Program, and Veterans Homes, as approved by the Veterans Affairs Commission.

Sections 903, "Committees," 909, "Policies of the Department," and 957, "Housing Policy," are being repealed.

Section 901, "Officers," is being amended and renumbered as Section 903, "Officers," (§903, "Committees," being repealed in this proposed Rule), to accommodate newly promulgated Sections to appear at the beginning of the Chapter.

Title 4
ADMINISTRATION
Part VII. Governor's Office
Chapter 9. Veterans Affairs
Subchapter A. Veterans Affairs Commission
§901. Office of the Secretary

A. There shall be a secretary of veterans affairs who shall be appointed by the governor with consent of the senate. Any person appointed as secretary shall be a veteran. He shall serve at the pleasure of the governor at a salary fixed by the governor which salary shall not exceed the amount approved for such position by the legislature while in session. The secretary shall serve as the executive head and chief administrative officer of veterans affairs and shall have the responsibility for the policies of the department and for the administration, control, and operation of the functions, programs, and affairs of the department as provided by law. He shall perform his functions under the general control and supervision of the governor.

B. There may be a deputy secretary of veterans affairs who shall be appointed by the secretary with consent of the senate and who shall serve at the pleasure of the secretary at a salary fixed by the secretary, which salary shall not exceed the amount approved for such position by the legislature while in session. The duties and functions of the deputy secretary shall be determined and assigned by the secretary. If appointed, he shall serve as acting secretary in the absence of the secretary.

C. There shall be an undersecretary of veterans affairs who shall be appointed by the governor with consent of the senate and who shall serve at the pleasure of the governor at a salary fixed by the governor, which salary shall not exceed the amount approved for such position by the legislature while in session. The undersecretary shall direct and be responsible for the functions of the office of management and finance within veterans affairs. In such capacity, he shall be responsible for accounting and budget control, procurement and contract management, data processing, management and program analysis, personnel management, and grants management for the department and all of its offices, including all agencies transferred to veterans affairs.

D. The domicile of the Department of Veterans Affairs shall be Baton Rouge, where suitable offices will be provided under R.S. 29:252.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:781,783-786.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, Veterans Affairs Commission, LR 38:1015 (April 2012).

§902. Powers and Duties of the Secretary

A. In addition to the functions, powers, and duties otherwise vested in the secretary by law, he shall:

1. Represent the public interest in the administration of this chapter and shall be responsible to the governor, legislature, and the public therefore.

2. Determine the policies of the department, except as otherwise provided by law.

3. Organize, plan, supervise, direct, administer, execute, and be responsible for the functions and programs vested in the department, in the manner and to the extent provided by law, including but not limited to:

a. veterans home operations;

b. veterans benefits assistance;

c. homeless veteran outreach;

d. state veterans cemetery operations;

e. Louisiana honor medal distribution;

f. educational support, including State Approving Agency operations;

g. Troops to Teachers operations;

h. Military Family Assistance administration;

i. veteran owned business support, including but not limited to Veterans Initiative support;

j. veteran employment support;

k. incarcerated veteran support and readjustment support when appropriate;

l. other functions deemed necessary by the secretary and not prohibited by law.

4. Advise the governor on problems concerning the administration of the department and veterans issues.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:781,783-786.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, Veterans Affairs Commission, LR 38:1015 (April 2012).

§903. Officers
(Formerly §901)

A. The Veterans Affairs Commission shall be composed of nine members who are honorably discharged veterans, citizens of the United States of America and of this state, and who are qualified voters.

B. The chairman and vice chairman of the commission shall be elected at the first meeting following the governor's appointment of the total commission or at the first meeting held following July 1 in even-numbered years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:253, R.S. 36:781.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 7:486 (October 1981), amended by the Office of the Governor, Department of Veterans Affairs, Veterans Affairs Commission, LR 38:1016 (April 2012).

§905. Members

A. Each member may be paid $75 each day devoted to the work of the commission, but not more than $1,500 in any one fiscal year.

B. Commission members may also be entitled to reimbursement for necessary travel and other expenses, in accordance with current state travel regulations.

C. Monies under this Section may only be paid when available.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:253, R.S. 36:781.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 7:486 (October 1981), amended LR 20:48 (January 1994), amended LR 25:2211 (November 1999), amended by the Office of the Governor, Department of Veterans Affairs, Veterans Affairs Commission, LR 38:1016 (April 2012).

§907. Meetings

A. The commission shall hold its regular meeting in the administrative office in Baton Rouge, unless, at the discretion of the chairman, it is necessary or convenient in the performance of its duties, to meet in some other city or location.

B. The commission may hold at least one regular meeting in each quarter, annual period, at the administrative office in Baton Rouge.

C. The commission can hold special meetings at times and places specified by call of the chairman, or a majority of the commission, upon written notice of time and place by the secretary.

D. A majority of commission members (five) constitutes a quorum for the transaction of business.

E. No action will be taken by the commission without the concurrence of at least five members physically present and voting.

F. No commission member shall vote by proxy, by representation, or by mail.

G. The secretary of veterans affairs shall act as secretary and keep adequate records and minutes of official actions and distribute copies to each member as soon as practical.

H. The commission shall meet semi-annually with the secretary and his staff for the purpose of reviewing the overall operation and upgrading of the department.

I. The commission, as a body, may meet at least once per year with the Joint Legislative Committee on Veterans Affairs to assist the committee in forming legislative goals for the Department of Veterans Affairs.

J. The meeting with the Joint Legislative Committee on Veterans Affairs shall be arranged at the call of the secretary.

K. No meeting of the commission shall exceed a maximum of two days.

L. Two-day meetings or weekend meetings of the commission are not to be scheduled unless there is valid justification and/or unusual circumstances.

M. Minutes of the commission meetings are to be submitted to the Legislative Committee on Veterans Affairs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:253, R.S. 36:781.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 7:486 (October 1981), amended by the Office of the Governor, Department of Veterans Affairs, Veterans Affairs Commission, LR 38:1016 (April 2012).

§909. Policies of the Department

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:254.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 7:486 (October 1981), repealed by the Office of the Governor, Department of Veterans Affairs, Veterans Affairs Commission, LR 38:1016 (April 2012).

§911. Travel

A. Travel will only be authorized on days that per diem is paid, unless prior approval is granted by the secretary or his designated representative. Travel must be for official state business.

B. All travel vouchers for the commission members shall be authorized by the secretary in accordance with adopted rules relating to travel.

C. The secretary shall keep the chairman and all members of the commission appraised of the availability or no availability of travel monies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:254.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 7:486 (October 1981), amended LR 20:48 (January 1994), amended LR 24:936 (May 1998), amended LR 25:2211 (November 1999), amended by the Office of the Governor, Department of Veterans Affairs, Veterans Affairs Commission, LR 38:1016 (April 2012).

Subchapter B. State Educational Aid Program

§917. Eligibility

A. Application must be made through the Parish Veterans Service Office. In order to be eligible, the following criteria must be met.

1. A member of the armed forces of the United States of America must have been killed in action or died in active service from other causes or who is missing in action or who is a prisoner of war or veteran who died as a result of a service-connected disability.

2. The veteran must be rated 90 percent or above service-connected disabled or who has been determined to be unemployable as a result of a service-connected disability by evaluation of the United States Department of Veterans Affairs Rating Schedule.

3. The deceased veteran must have been a Louisiana resident for at least one year immediately preceding his entry into service.

4. The qualified veteran must have been a resident of Louisiana for at least two years immediately preceding admission of the child into a training institution.

5. The child applicant must be between the age of 16 and 25, and marriage is not a bar to the program.

6. The spouse has no age limit but must use the benefit within 10 years of the date eligibility is established. Remarriage is a bar to this benefit. Divorce after remarriage does not re-establish eligibility. Program termination for remarried surviving spouse will be the end of the semester in which the marriage takes place.

7. The eligible student must attend school on a full-time basis.

8. The eligible student may attend any state college or university, including institutions under the jurisdiction of the Board of Supervisors of Community and Technical Colleges; all entrance requirements for such institution must be met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:288, R.S. 29:254.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans' Affairs, LR 7:485 (October 1981), amended LR 13:743 (December 1987), LR 19:1565 (December 1993), LR 23:1685 (December 1997), LR 26:2211 (November 1999), amended by the Office of the Governor, Department of Veterans Affairs, Veterans Affairs Commission, LR 38:1017 (April 2012).

Subchapter C. Veterans Homes

§937. Admission Requirements

A. For admission to a Louisiana State Veterans Home, a veteran must be a resident of Louisiana. State residence is not mandatory if applicant is referred from an in-state United States Department of Veterans Affairs Medical Center, or by a Louisiana Department of Veterans Affairs veterans assistance counselor. The veteran must be recommended by the home administrator and approved for admission by the secretary of the Louisiana Department of Veterans Affairs.

B. The veteran must have served on active military duty 90 days or more, or if less than 90 days, discharged due to a disability incurred in the line of duty and must be in receipt of a discharge under honorable conditions for his/her latest period of active military service.

C. The veteran must undergo a medical examination prior to admission and, as a result, it must be confirmed that he/she does not have a communicable disease, does not require medical or hospital care for which the home is not equipped to provide, and does not have violent traits which may prove dangerous to the physical well-being of the other patients or employees.

D. The veteran must consent to abide by all rules and regulations governing the home and to follow the course of treatment as prescribed by the home's medical staff.

E. The veteran, or party responsible for his/her financial matters, must agree to pay the full patient care and maintenance fee. The administrator, with authorization from the secretary, may defer any charge that exceeds the veteran's income.

F. The veteran applicant must not have criminal charges pending against him/her.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:254.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 9:411 (June 1983), repromulgated LR 9:549 (August 1983), amended LR 11:34 (January 1985), LR 13:86 (February 1987), LR 13:161 (March 1987), LR 13:570 (October 1987), LR 18:269 (March 1992), LR 21:801 (August 1995), amended by the Office of the Governor, Department of Veterans Affairs, Veterans Affairs Commission, LR 38:1017 (April 2012).

§939. Care and Maintenance Fees

A. Care and maintenance fees will be based on total family income. This includes income from all sources (Social Security, United States Department of Veterans Affairs pension/compensation, private pension, interest from savings, and/or interest bearing accounts/investments).

B. In no case will the fee charged to the patient be more than the actual cost of care, as determined by the secretary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:384, R.S. 29:254.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Veterans Affairs, LR 9:411 (June 1983), repromulgated LR 9:549 (August 1983), amended LR 11:34 (January 1985), LR 13:86 (February 1987), LR 13:161 (March 1987), LR 21:801 (August 1995), amended by the Office of the Governor, Department of Veterans Affairs, Veterans Affairs Commission, LR 38:1017 (April 2012).

§947. Fee Payable in Advance after Admission

A. Care and maintenance fees are payable one month in advance. These fees are due before the tenth of each month. A portion of a month will be prorated according to the number of days stay. Patients will not be charged care and maintenance fees for periods of hospital confinement in excess of 10 days unless they desire that a bed be held until they return. For periods of leave from the home, care and maintenance fees are payable as arranged with the home administrator or his designee. Patients who are unable to pay charges in advance will be allowed to prorate the advance month fee over a 12-month period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:254, R.S. 29:384.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Veterans Affairs, LR 9:411 (June 1983), repromulgated LR 9:549 (August 1983), amended LR 11:34 (January 1985), LR 13:86 (February 1987), LR 13:161 (March 1987), LR 21:802 (August 1995), amended by the Office of the Governor, Department of Veterans Affairs, Veterans Affairs Commission, LR 38:1017 (April 2012).

§955. Unusual Financial Circumstances

A. All patients at a veterans home who feel they have unusual financial circumstances/hardships can request relief and consideration of deferment of care and maintenance fees. Under no circumstances will the deferment exceed 25 percent of the established care and maintenance fee, which is based on total family income. Patients may apply for this consideration through the home administrator. The home administrator will forward the request, with an appropriate recommendation, to the secretary for approval or disapproval.

B. All deferments that are in force will be re-evaluated annually on anniversary month. The home administrator will make a report of re-evaluation, with recommendations on each case, to the secretary for further consideration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:254.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Veterans Affairs, LR 9:411 (June 1983), repromulgated LR 9:549 (August 1983), amended LR 11:34 (January 1985), LR 13:86 (February 1987), LR 13:161 (March 1987), LR 21:802 (August 1995), amended by the Office of the Governor, Department of Veterans Affairs, Veterans Affairs Commission, LR 38:1018 (April 2012).

§957. Housing Policy

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:254.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Veterans Affairs, LR 21:945 (September 1995), repealed by the Office of the Governor, Department of Veterans Affairs, Veterans Affairs Commission, LR 38:1018 (April 2012).

David LaCerte
Deputy Secretary

1204#039

RULE

Office of the Governor
Division of Administration
Racing Commission

Training Tracks (LAC 46:XLI.Chapter 19)

The Louisiana State Racing Commission has amended Training Tracks (LAC 46:XLI.Chapter 19) as follows.

Title 46
PROFESSIONAL AND OCCUPATINOAL STANDARDS
Part XLI. Horseracing Occupations

Chapter 19. Training Tracks

§1903. License Information

A. Anyone desiring to operate a training track must make application to the commission on or before April 15 of each year. On or before May 1 each year, the commission will consider all applications for a license to operate a training track.

B. An applicant seeking such license shall provide the following information:

1. the full name of the person, partnership, corporation, or limited liability company, and the names of agents for service of process within Louisiana;

2. if an association or corporation, the names of the stockholders and directors of the corporation or the names of the members of the association;

3. if a partnership or limited liability company, the names and addresses of each partner or member, the relative proportions of such interests, and terms of management;

4. the exact location where it is desired to operate a training track;

5. a statement of the assets and liabilities of the person or entity applying for the license;

6. name of liability insurer, policy number, name of insureds, and certificate of insurance in an amount not less than $1,000,000;

7. such other information as the commission may require.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 4:289 (August 1978), amended by the Office of the Governor, Division of Administration, Racing Commission, LR 38:1018 (April 2012).

§1904. License Renewal

A. After being granted a license to operate as a training track, any person or corporation desiring to continue to operate as a training track must submit an application for a license on a yearly basis to the commission on or before April 15 each year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 17:260 (March 1991), amended by the Office of the Governor, Division of Administration, Racing Commission, LR 38:1018 (April 2012).

§1905. Authority and Jurisdiction

A. The commission, its stewards, agents and employees shall have full authority and jurisdiction over a licensed training track as may be appropriately exercised pursuant to R.S. 4:141 et seq., and the *Rules of Racing* as such apply to an association or licensee or permittee and consistent therewith.

B. Any individual deriving economic benefit from employment on the grounds of a training track shall be licensed by the commission whether he or she is in the employ of the training track or an individual. Economic benefit includes, but is not limited to, fixed salary, hourly wages, or income from gratuities.

C. Any licensed training track shall disclose in writing any and all activity it has reason to believe may be criminal under the laws of this state or the United States and violations of the *Rules of Racing* to the Louisiana State Racing Commission. Failure to do so may subject the training track to a penalty by way of fine and/or suspension of license.

D. Any owner, supervisor, or employee of a licensed training track shall at all times keep from the premises of the training track, including but not limited to its auxiliary

buildings, barns, sheds and offices, any person who is known to be ordered by the commission to be excluded, ejected or otherwise deemed not in good standing. The commission, or designated racing stewards, may revoke, limit, condition, or suspend the license of or impose a fine on any individual or licensee in accordance with the law of this state and rules and regulations of the commission, if the licensee or person knowingly and willfully fails to act to exclude or eject any person who is known to be excluded, ejected or otherwise deemed not in good standing by the commission.

E. Each training track shall provide one ambulance during all days and at all times designated within the license for the conduct of official work-outs. During such time, the ambulance shall be ready for duty, properly equipped to provide emergency medical services, including equipment and personnel, and shall have immediate access to the racing strip.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 4:289 (August 1978), amended by the Office of the Governor, Division of Administration, Racing Commission, LR 38:1018 (April 2012).

§1906. Production of Books, Memorandum, or Documents; Removal of Official or Employee; Manner of Keeping Books; Witnesses; Penalty

A. The commission may compel the production of all books, memoranda, or documents showing receipts of accounts payable and accounts receivable of any person licensed to conduct a training track. As a condition of licensing, the commission may require that the books, financial statement, or other statement of any licensee be kept in a manner provided by the commission.

B. The commission, a racing steward, or a designated representative of either may visit, investigate, audit, and place inspectors in the offices, tracks or place of business of the licensed training track.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 38:1019 (April 2012).

§1907. Grounds for Denial or Termination of Training Track License

A. The commission may refuse, suspend, or withdraw a training track license for just cause, which shall include but not be limited to any of the following:

1. any actions which are found to violate the provisions of this chapter or other applicable *Rules of Racing* to the Louisiana State Racing Commission, the laws of this state or the United States;

2. corrupt practice;

3. willful falsification and/or misstatement of material fact in an application for license;

4. material false statement to the commission, racing stewards, or its duly authorized representative;

5. continued failure to meet the terms and conditions of the license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 38:1019 (April 2012).

Charles A. Gardiner III
Executive Director

1204#018

RULE

Office of the Governor
Office of Homeland Security and Emergency Preparedness

Intrastate Mutual Aid Compact
(LAC 55:XXIII.Chapter 1 and 3)

Under the authority of The Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the director has adopted LAC 55:XXIII.Chapter 1 and 3 (Intrastate Mutual Aid Compact).

The Rule applies to intrastate mutual aid between parishes in the prevention of, response to, and recovery from, an emergency or disaster. The Rule will provide guidelines and procedures implementing effective mutual aid in the state and provide for responsibilities of requesting and assisting parishes with respect to limitations, reimbursement and insurance.

Title 55
PUBLIC SAFETY
Part XXIII. Intrastate Mutual Aid Compact
Chapter 1. General Provisions

§101. Overview

A. Act 1035 of the 2010 Regular Legislative Session, effective on August 15, 2010, established the Intrastate Mutual Aid Compact, effective for any and all parishes in the state, to provide and promote mutual assistance among the parishes in the prevention of, response to, and recovery from, an emergency or disaster, as defined in R.S. 29:723, occurring in a parish, or any other event that exceeds a parish's capability or resources and provides for mutual cooperation among the parishes in conducting disaster related exercises, testing, or other training activities outside actual emergency periods.

B. The Intrastate Mutual Aid Compact does not mandate that a parish provide assistance when requested, nor does it preclude parishes from entering into supplemental agreements with other parishes pursuant to R.S. 29:730 and 730.1 and does not affect any other agreement to which a parish may currently be a party, or decide to be a party.

C. Revised Statutes 29:739(D) added by Act 1035 of the 2010 Regular Legislative Session, effective August 15, 2010, established the Intrastate Mutual Aid Subcommittee whose responsibility it will be to:

1. review the progress and status of providing statewide mutual aid in times of disaster;

2. assist in developing methods to track and evaluate the activation of the mutual aid system; and

3. examine issues facing participating parishes regarding the implementation of this compact;

4. prepare an annual report on the condition and effectiveness of mutual aid in the state, make recommendations for correcting any deficiencies, and submit that report to the governor and the Joint House and Senate Select Committees on Homeland Security by January thirty-first of each year;

5. the subcommittee shall make recommendations to the Governor's Office of Homeland Security and Emergency Preparedness on comprehensive guidelines and procedures including but not limited to the following:

a. projected or anticipated costs;

b. checklists for requesting and providing assistance;

c. recordkeeping for all parishes;

d. reimbursement procedures;

e. changes in legislation or policy to better facilitate the mutual aid process; and

f. any necessary implementation elements such as forms for requests and other records documenting deployment and return of assets.

D. Revised Statutes 29:739(E)(3) added by Act 1035 of the 2010 Regular Legislative Session, effective August 15, 2010, requires the Governor's Office of Homeland Security and Emergency Preparedness, in coordination with the Intrastate Mutual Aid Subcommittee, to develop guidance and procedures governing the implementation of the Intrastate Mutual Aid Compact in accordance with the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:725.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Homeland Security and Emergency Preparedness, LR 38:1019 (April 2012).

§103. Purpose and Scope

A. The purpose of these regulations is:

1. to establish an agreement for providing governmental services and resources in preparation for, response to and recovery from any disaster resulting in a formal declaration of emergency; and

2. to provide an easily accessible source of information on procedures used during the Intrastate Mutual Aid Compact process.

B. The scope of these regulations is:

1. a simple and efficient structure for requesting and receiving disaster assistance from other participating parishes;

2. resolution of potential legal and administrative issues in advance of a disaster; and

3. a tool to strengthen mutual aid resources across Louisiana by strengthening local government's capacity to respond to a disaster.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:725.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Homeland Security and Emergency Preparedness, LR 38:1020 (April 2012).

§105. Definitions

IMAC—Intrastate Mutual Aid Compact.

First Responder—those individuals who in the early stages of an incident are responsible for the protection and preservation of life, property, evidence, and the environment, including emergency response providers as defined in Section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101), as well as emergency management, public health, clinical care, public works, and other skilled support personnel, such as equipment operators that provide immediate support services during prevention, response, and recovery operations consistent with Homeland Security Presidential Directive 8.

Requesting Parish—any parish in the state of Louisiana that has informally or formally requested Intrastate Mutual Aid Compact assistance.

Assisting Parish—any parish in the state of Louisiana that is providing an Intrastate Mutual Aid Compact requested resource.

Authorized Representative—person designated by the chief executive of the parish to obligate resources and expend funds on behalf of the parish.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:725.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Homeland Security and Emergency Preparedness, LR 38:1020 (April 2012).

Chapter 3. Limitations, Implementation, and Reimbursement

§301. Limitations

A. A parish's obligation to provide assistance in preparation for, response to or recovery from a disaster shall be subject to the following conditions:

1. first responders of a responding parish shall remain subject to recall by their responding jurisdiction, will continue to utilize customary skills, techniques, standard operating procedures to include medical procedures and protocols, and other procedures and protocols;

2. first responders shall be under the direction and control of the appropriate officials within the incident management system of the parish receiving the assistance; and

3. assets and equipment of a responding parish shall remain subject to recall by their responding jurisdiction, but shall be under the direction and control of the appropriate officials within the incident management system of the parish receiving the assistance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:725.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Homeland Security and Emergency Preparedness, LR 38:1020 (April 2012).

§303. Implementation

A. Responsibilities of a requesting parish include:

1. parish state of emergency declaration prior to requesting assistance;

2. documenting of process from declaration through reimbursement;

3. utilizing State Emergency Management process for requesting resources;

4. adhering to guidelines set forth in the National Incident Management System; and

5. participating in after action review and implementing corrective actions.

B. Responsibilities of an assisting parish include:

1. verifying the details of the request for assistance;

2. ensuring receipt of proper authorization from requesting parish prior to deployment;

3. utilizing State Emergency Management process for requesting resources;

4. adhering to guidelines set forth in the National Incident Management System; and

5. participating in after action review and implementing corrective actions.

C. Responsibilities of the state of Louisiana:

1. overseeing and maintaining the State Emergency Management process in order to facilitate the IMAC process; and

2. maintaining updated parish authorized representative listing.

D. By officially executing the IMAC request, the authorized representatives from both the assisting parish and requesting parish will have, in effect, entered into a contract to provide and to reimburse for services to be rendered under the Intrastate Mutual Aid Compact.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:725.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Homeland Security and Emergency Preparedness LR 38:1020 (April 2012).

§305. Reimbursement

A. Intrastate Mutual Aid Compact response shall not depend on assistance that may result from a state or federal disaster declaration.

B. With a letter to the requesting parish, assisting parishes may donate mutual aid or assume partial or total costs associated with loss, damage or use of personnel, equipment and/or resources while providing mutual aid through an IMAC request.

C. Reimbursement shall not be:

1. provided to those assisting parishes that document the donation of their services or assume any costs while providing IMAC assistance;

2. available for costs incurred when mutual aid assistance has been provided to a parish that does not have a formal declaration of emergency;

3. for costs associated with Worker Compensation claims or death benefits to injured assisting parish responders, other than the portion of the responder's agreed-upon daily cost rate ordinarily attributable to "benefits;"

4. in duplication of other payment and insurance proceeds;

5. provided for costs and expenses incurred that cannot be supported by documentation;

6. provided to assisting parishes that have self-deployed without a formal request from a requesting parish; or

7. provided for ineligible costs including:

a. the value of volunteer labor or paid labor that is provided at no cost;

b. administration of IMAC resources; and

c. training, exercise or on-the-job training.

D. Responsibilities of a requesting parish include:

1. review and agreement to estimated daily costs of resources offered by an assisting parish prior to deployment of those resources;

2. coordination of requests for reimbursement from assisting parish through the authorized representatives;

3. maintaining financial records in compliance with the state or local retention guidance;

4. ensure a state of emergency was issued by the parish;

5. maintaining and making available all appropriate documentation; and

E. Responsibilities of an assisting parish include:

1. providing estimated daily costs of resources requested by the requesting parish prior to deployment of resources;

2. using Intrastate Mutual Aid Compact reimbursement procedures, seek reimbursement through the authorized representative for expenses associated with resources provided in response to an IMAC request;

3. providing accurate and complete request for reimbursement to the requesting parish authorized representative within 30 days from demobilization;

4. maintaining original documents that support request for reimbursement in accordance with applicable record retention guidance; and

5. providing a written request for a time extension through the authorized representative if a reimbursement request cannot be completed within the 30 day timeframe.

F. Responsibilities of the state of Louisiana:

1. providing technical assistance should a requesting parish seek reimbursement for mutual aid provided by an assisting parish.

G. Revised Statutes 29:739(H) added by Act 1035 of the 2010 Regular Legislative Session, effective August 15, 2010, provides that personnel authorized by their employer to respond to an event who sustain injury or death in the course and scope of their employment remain entitled to all applicable benefits normally available pursuant to their employment even though they may be under the direction and control of another governmental entity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:725.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Homeland Security and Emergency Preparedness, LR 38:1021 (April 2012).

Pat Santos
Interim Director

1204#049

RULE

Office of the Governor
Real Estate Commission

Internet Advertising (LAC 46:LXVII.2515)

Under the authority of the Louisiana Real Estate License Law, R.S. 37:1430 et seq., and in accordance with the provisions of the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana Real Estate Commission has amended LAC 46:LXVII, Real Estate, Chapter 25 (Advertising; Disclosures; Representations), Section 2515 (Internet Advertising).

The amendment reinserts previously removed language relative to the license regulatory jurisdiction information included in all internet advertising.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LXVII. Real Estate
Subpart 1. Real Estate

Chapter 25. Advertising; Disclosures; Representations

§2515. Internet Advertising

A. - A.2. …

3. the regulatory jurisdiction(s) in which the broker holds a real estate brokerage license.

B. - B.2. …

3. the regulatory jurisdiction(s) in which the broker holds a real estate brokerage license.

C. - C.3. …

4. the regulatory jurisdiction(s) in which the broker holds a real estate brokerage license.

D. - D.3. ...

4. the regulatory jurisdiction(s) in which the broker holds a real estate brokerage license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:43 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 28:829 (April 2002), LR 37:3004 (October 2011), LR 38:1022 (April 2012).

Bruce Unangst
Executive Director

1204#052

RULE

Department of Health and Hospitals
Addictive Disorder Regulatory Authority

Disciplinary Procedures
(LAC 46:LXXX.Chapter 9)

The Department of Health and Hospitals, Addictive Disorder Regulatory Authority, has exercised the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and has amended LAC 46.LXXX.901-923, Disciplinary Procedures of the Addictive Disorder Regulatory Authority.

The Addictive Disorder Practice Act is found at R.S. 37:3386-3390.6. R.S. 37:3390.3 authorizes the Addictive Disorder Regulatory Authority to conduct disciplinary action to deny, revoke or suspend any credential, specialty certification, status of other recognition authorized by the Addictive Disorder Practice Act. R.S. 37:3388.4(A)(5) and (12) authorize the Addictive Disorder Regulatory Authority to promulgate rules for administration and carrying out provisions of the Addictive Disorder Practice Act. These amendments were adopted in accordance therewith.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LXXX. Substance Abuse Counselors

Chapter 9. Disciplinary Procedures

§901. Causes for Administrative Action

A. The ADRA after due notice and hearing as set forth herein and the Administrative Procedure Act, R.S. 49:950 et seq., may deny, revoke or suspend any credential, specialty certification, status or other recognition issued or applied for, or otherwise discipline an applicant for or holder of any credential, specialty certification, status or other recognition on a finding that the person has violated the Addictive Disorders Practice Act, any rules or regulations promulgated by the ADRA, the Code of Ethics, any supervision guidelines, any policy published by the ADRA, or prior final decisions and/or consent orders involving the holder or applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3388.4(3) and La. R.S. 37:3390.3(B) and La. R.S. 37:3389(G).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Addictive Disorders, Addictive Disorder Regulatory Authority, LR 31:656 (March 2005), amended by the Department of Health and Hospitals, Addictive Disorder Regulatory Authority, LR 38:1022 (April 2012).

§903. Disciplinary Process and Procedures

A. These rules and regulations are designed to supplement and effectuate the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., regarding the disciplinary process and procedures and are not intended to amend or repeal the provisions of the Administrative Procedure Act. To the extent any of these rules and regulations are in conflict therewith, the provisions of the Louisiana Administrative Procedure Act shall govern.

B. A disciplinary proceeding, including the formal hearing, is less formal than a judicial proceeding. It is not subject to strict rules and technicalities but must be conducted in accordance with considerations of fair play and constitutional requirements of due process.

C. The purpose of a disciplinary hearing is to determine contested issues of law and fact; whether the person committed certain acts or omissions and, if so, whether those acts or omissions violate the Addictive Disorders Practice Act, a rule or regulation of the ADRA, the Code of Ethics, or prior final decisions and/or consent orders involving the holder, or applicant; and to determine the appropriate disciplinary action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3388.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Addictive Disorders, Addictive Disorder Regulatory Authority, LR 31:656 (March 2005), amended by the Department of Health and Hospitals, Addictive Disorder Regulatory Authority, LR 38:1022 (April 2012).

§905. Initiation of Complaints

A. Complaints may be initiated by any person.

B. All complaints shall be signed and in writing. Anonymous complaints will not be considered. The executive director of the ADRA and the ADRA member assigned as complaint investigator, shall decide whether to investigate the complaint. If decision is to not investigate, a letter of denial is sent both to the complainant and the person accused of wrongdoing. If the decision is to investigate, the person shall be notified that allegations have been made that he may have committed a breach of statute, rule or regulation, the Code of Ethics, and/or prior final decisions or consent orders; and that he must respond in writing to the ADRA within a specified time period. After the response to the complaint, if any, and other pertinent information, if available, is reviewed, a determination will be made by the executive director and complaint investigator as to whether or not a disciplinary proceeding is required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3388.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Addictive Disorders, Addictive Disorder Regulatory Authority, LR 31:656 (March 2005), amended by the Department of Health and Hospitals, Addictive Disorder Regulatory Authority, LR 38:1022 (April 2012).

§906. Investigation of Complaints

A. The complaint is investigated by the board member complaint investigator and executive director of the ADRA to determine if there is sufficient evidence to warrant disciplinary proceedings.

B. The ADRA, through its executive director, may issue subpoenas to secure evidence of alleged violations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3388.4(3) and La. R.S. 37:3390.3(B) and La. R.S. 37:3389(G).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Addictive Disorder Regulatory Authority, LR 38:1023 (April 2012).

§907. Informal Disposition of Complaints

A. Complaints may be settled informally by the ADRA and the person accused of a violation without the necessity of a formal hearing.

B. The following types of informal dispositions may be utilized.

1. Disposition by Correspondence

a. For complaints deemed technical in nature and which are considered less serious (complaints for which the allegations, if taken as true, do not indicate circumstances which pose a risk or threat of harm to a client), the executive director may write to the person explaining the nature of the complaint received. If the person's subsequent response provides a satisfactory explanation, the matter may be closed.

b. If a satisfactory explanation is not forthcoming, the matter shall be pursued through an informal meeting and/or formal hearing.

2. Disposition by Informal Meeting

a. The executive director may hold an informal meeting with the person in lieu of, or in addition to, correspondence for those complaints deemed technical in nature and which are considered less serious. If the situation is satisfactorily explained in the informal meeting, the matter may be closed.

b. The person shall be given adequate notice of the informal meeting, of the issues to be discussed and of the fact that information brought out at the informal meeting may later be used in a formal hearing. The informal meeting shall be conducted by the complaint investigator or executive director or designee.

3. A settlement agreement between the person making the complaint and the person accused of a violation does not preclude disciplinary action by the ADRA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3388.4.

HISTORICAL NOTE: Promulgated by the Department of and Hospitals, Office for Addictive Disorders, Addictive Disorder Regulatory Authority, LR 31:656 (March 2005); amended by the Department of Health and Hospitals, Addictive Disorder Regulatory Authority, LR 38:1023 (April 2012).

§908. Decision to Initiate Formal Complaint

A. A decision to initiate a formal complaint or charge is made if one or more of the following conditions exist:

1. the complaint is sufficiently serious;

2. the person fails to respond to ADRA correspondence concerning the complaint;

3. the person's response to the ADRA letter or investigation demand fails to provide a satisfactory explanation and/or fails to convince that no action is necessary; or

4. an informal meeting is convened, but fails to resolve all of the issues.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3388.4(3) and La. R.S. 37:3390.3(B) and La. R.S. 37:3389(G).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Addictive Disorder Regulatory Authority, LR 38:1023 (April 2012).

§909. Sworn Complaint and Notification of Hearing

A. A sworn complaint, fixing a time and place for hearing, is filed by the executive director of the ADRA, charging the violation of one or more of the provisions of the Addictive Disorders Practice Act, the rules and regulations promulgated thereto, the Code of Ethics, or prior final decisions and/or consent orders involving the person.

B. Notification of Hearing

1. At least 30 days prior to the date set for the hearing, a copy of the charges and a notice of the time and place of the hearing are sent to the address of record of the person accused. A copy of the notice sent to the person, attached to a certificate signed by the executive director attesting to the date of the mailing, shall constitute proof of notice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3388.4(3) and La. R.S. 37:3390.3(B) and La. R.S. 37:3389(G).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Addictive Disorder Regulatory Authority, LR 38:1023 (April 2012).

§911. Formal Hearing
[Formerly §909]

A. The ADRA has the authority, granted by R.S. 37:3390.3 et seq., to bring administrative proceedings against persons holding or applying for any credential, specialty certification status or other recognition issued by ADRA.

B. The person has the right to appear and be heard, either in person or by counsel; the right of notice; a statement of what accusations have been made; the right to present evidence and to cross-examine; and the right to have witnesses subpoenaed. If the person does not appear, either in person or through counsel, after proper notice has been given, the person may be considered to have waived these rights and the ADRA may proceed with the hearing without the presence of the person.

C. Except for good cause shown, motions requesting a continuance of a hearing shall be in writing and shall be filed at least five days prior to the date set for the hearing. The motion shall state the reason for the request. The executive director shall grant or deny the request, in writing, within 24 hours. If the request is denied, written reasons for the denial shall be included.

D. The executive director issues subpoenas for the ADRA for disciplinary proceedings, and when requested to do so, may issue subpoenas for the other party.

E. The ADRA, compromised of a quorum of voting members, shall serve as administrative jury to hear and determine the disposition of the pending matter based on the finding(s) of fact and conclusion(s) of law by receiving evidence and reaching a decision and/or ordering sanctions with an affirmative majority record vote of ADRA members participating in the decision process.

F. Legal counsel to the ADRA shall prosecute the pending matter and bear the burden of proof to be presented to the ADRA.

G. An opening statement by legal or special counsel may present a brief position comment with an outline of evidence to be offered. Respondent or respondent's legal counsel may present an opening defense position statement.

H. Testimony shall be received under oath administered by the presiding hearing officer, the executive director, or other staff or board member designated by the hearing officer.

I. All parties shall be afforded an opportunity to present evidence on all issues of fact and argue on all issues of law and respond by direct testimony, followed with cross examination as may be required for a full and true disclosure of the facts. The direct presentation of evidence shall be introduced by the legal or special counsel and shall be followed by the respondent in proper person or by legal counsel by direct or cross-examination and/or rebuttal.

J. Witnesses may be directly examined and cross-examined. Additionally, witnesses and/or respondents may be questioned during an administrative hearing by members of the ADRA.

K. Closing arguments may be made by respondent in proper person or by legal counsel followed by closing arguments from prosecuting legal or special counsel.

L. A stenographic or audio recording of the hearing shall be made and upon payment by the requesting party a transcript kept on file with the ADRA.

M. The Chairman of the ADRA, or his or her designee, shall preside at the hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3388.4(3) and La. R.S. 37:3390.3(B) and La. R.S. 37:3389(G).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Addictive Disorders, Addictive Disorder Regulatory Authority, LR 31:656 (March 2005), amended by the Department of Health and Hospitals, Addictive Disorder Regulatory Authority, LR 38:1023 (April 2012).

§913. Decision

A. The ADRA's decision shall be based on finding(s) of fact and conclusion(s) of law. The decision shall be based on a preponderance of the evidence presented at a formal hearing, together with the determination of any appropriate sanctions, by an affirmative majority record vote of the ADRA members participating in the decision process. Decisions shall be recorded and made part of the record.

B. The ADRA order shall be rendered at the open hearing or taken under advisement and rendered within thirty days of the hearing and then served personally or domiciliary at the respondent's last known address by regular, registered, or certified mail, or by a diligent attempt thereof.

C. Every order of the ADRA shall take effect immediately on its being rendered unless the ADRA in such order fixes a stay of execution of a sanction for a period of time against an applicant or holder. Such order, without a stay of execution, shall continue in effect until expiration of any specified time period or termination by a court of competent jurisdiction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3388.4(3) and La. R.S. 37:3390.3(B) and La. R.S. 37:3389(G).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Addictive Disorder Regulatory Authority, LR 38:1024 (April 2012).

§915. Rehearing

A. The ADRA may reconsider a matter which it has decided. This may involve rehearing the case, or it may involve reconsidering the case on the basis of the record. Such reconsideration may occur when a party who is dissatisfied with a decision of the ADRA files a motion requesting that the decision be reconsidered by the ADRA.

B. A motion by a party for reconsideration or rehearing must be filed within 10 days after notification of the ADRA decision. The motion shall set forth the grounds for the rehearing, which include one or more of the following:

1. the decision is clearly contrary to the law and evidence;

2. there is newly discovered evidence by the party since the hearing which is important to the issues and which the party could not have discovered with due diligence before or during the hearing;

3. there is a showing that issues not previously considered ought to be examined in order to dispose of the case properly; or

4. it would be in the public interest to further consider the issues and the evidence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3388.4(3) and La. R.S. 37:3390.3(B) and La. R.S. 37:3389(G).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Addictive Disorder Regulatory Authority, LR 38:1024 (April 2012).

§917. Consent Order
[Formerly §911]

A. An agreement may be entered into between the ADRA and the person against whom a complaint has been filed. The agreement is not effective until reduced to writing and signed by the person, the executive director of the ADRA and all counsel of record, and approved by the ADRA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3388.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Addictive Disorders, Addictive Disorder Regulatory Authority, LR 31:659 (March 2005), repromulgated by the Department of Health and Hospitals, Addictive Disorder Regulatory Authority, LR 38:1024 (April 2012).

§919. Withdrawal of a Complaint
[Formerly §913]

A. A complainant may withdraw a complaint at any time. The ADRA, however, may continue the investigation if it is determined that the issues are of such importance as to warrant further review.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3388.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Addictive Disorders, Addictive Disorder Regulatory Authority, LR 31:659 (March 2005), repromulgated by the Department of Health and Hospitals, Addictive Disorder Regulatory Authority, LR 38:1024 (April 2012).

§921. Refusal to Respond or Cooperate with the ADRA
[Formerly §915]

A. The application for and/or acceptance of a credential or certification issued by the ADRA obligates the holder thereof to respond to any request for information, or otherwise cooperate with any investigation conducted by the ADRA.

B. Any person refusing to reply to an ADRA inquiry or otherwise cooperate with the ADRA is subject to disciplinary action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3388.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Addictive Disorders, Addictive Disorder Regulatory Authority, LR 31:659 (March 2005), amended by the Department of Health and Hospitals, Addictive Disorder Regulatory Authority, LR 38:1025 (April 2012).

§923. Judicial Review of Adjudication
[Formerly §917]

A. Any person whose credential, certification, status, or application, has been denied, revoked or suspended or who has been otherwise disciplined by the ADRA shall have the right to have the proceedings of the ADRA reviewed by the Nineteenth Judicial District Court, provided that such petition for judicial review is made within 30 days after the notice of the decision of the ADRA. If judicial review is granted, the ADRA's decision is enforceable in the interim unless the court orders a stay.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3388.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Addictive Disorders, Addictive Disorder Regulatory Authority, LR 31:659 (March 2005); amended by the Department of Health and Hospitals, Addictive Disorder Regulatory Authority, LR 38:1025 (April 2012).

§925. Appeal
[Formerly §919]

A. A person aggrieved by any final judgment rendered by the state district court may obtain a review of said final judgment by appeal to the appropriate circuit court of appeal. Pursuant to the applicable Section of the Administrative Procedure Act, R.S. 49:950 et seq., this appeal shall be taken as in any other civil case.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3388.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Addictive Disorders, Addictive Disorder Regulatory Authority, LR 31:659 (March 2005), repromulgated by the Department of Health and Hospitals, Addictive Disorder Regulatory Authority, LR 38:1025 (April 2012).

§927. Emergency Action
[Formerly §921]

A. If the executive director of the ADRA finds that public health, safety and welfare requires emergency action and incorporates a finding to that effect in an order, a summary suspension of a certificate or registration, or counselor or prevention specialist in training status, may be ordered pending proceedings for disciplinary action. Such proceedings shall be promptly instituted and a formal hearing held, after due notice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3388.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Addictive Disorders, Addictive Disorder Regulatory Authority, LR 31:659 (March 2005); amended by the Department of Health and Hospitals, Addictive Disorder Regulatory Authority, LR 38:1025 (April 2012).

§929. Public Record

A. All consent orders and final decisions rendered in disciplinary action shall be public record and must be posted on the ADRA website.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3388.4(3) and La. R.S. 37:3390.3(B) and La. R.S. 37:3389(G).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Addictive Disorder Regulatory Authority, LR 38:1025 (April 2012).

LaMiesa D. Bonton
Executive Director

1204#007

RULE

Department of Health and Hospitals
Addictive Disorder Regulatory Authority

Fees (LAC 46:LXXX.501)

The Department of Health and Hospitals, Addictive Disorder Regulatory Authority, has exercised the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and amends LAC 46.LXXX.501, Fees of the Addictive Disorder Regulatory Authority.

The Addictive Disorder Practice Act is found at R.S. 37:3386-3390.6 and authorizes the Addictive Disorder Regulatory Authority to impose fees for applications, renewals and other services. R.S. 37:3388.4(A)(5) and (13) authorize the Addictive Disorder Regulatory Authority to promulgate rules for administration and carrying out provisions of the Addictive Disorder Practice Act. These amendments are adopted in accordance therewith.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LXXX. Substance Abuse Counselors
Chapter 5. ADRA Documents and Payment of Costs
§501. Fees

A. The fees and penalties of the ADRA shall not exceed the following amounts.

1. Addiction Counselor and Prevention Practice Credential

a.	Application (valid for one year)	$300
b.	Renewal of Credential	$300
c.	Certification by Reciprocity	$300
d.	Late Fee for Renewal	$150
e.	Reinstatement of Credential	$300

2. Specialty Certifications

a.	Application (valid for one year)	$200
b.	Renewal	$300
c.	Late Fee for Renewal	$150

3. In-Training Status for Counselor and Prevention Practice Credential

a.	Application (valid for one year)	$100
b.	Renewal	$100
c.	Late Fee for Renewal	$ 75

4. Treatment and Prevention Para-professional

a. Application (valid for one year) $100

b. Renewal (valid for one year) $100

c. Late Fee for Renewal $ 50

5. Approved Training or Educational Institute, Provider or Institution

a. Application (valid for one year) $250

b. Renewal $250

c. Course Reports for Each Participant $ 5

6. CEU Approval for Training or Educational Institutes, Providers or Institutions Who Do Not Obtain Approved Provider Status

a. Approval per Course $150

b. Course Reports for Each Participant $ 5

7. Approval of CEU Credits Not Obtained from an Approved Provider or where the Provider Has Not Received ADRA Approval of the Course

a. For each 15 hours of CEU Credit Submitted $ 50

8. Associated Application Fees. Requests must be submitted in writing along with the appropriate fee.

a. Duplicate or Replacement Wall Certificate $ 25

b. Duplicate or Replacement Wallet Card $ 5

c. Application for Name Change (includes card and certificate) $ 25

d. Copy of Information from File $0.25 per page

9. The ADRA may impose an administrative fee not to exceed $500 for each violation of its regulations committed by any person holding any ADRA practice credential, ADRA specialty certification, ADRA training status or other professional or para-professional status offered or recognized by the ADRA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3388.4(5) and (12).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Addictive Disorders, Addictive Disorder Regulatory Authority, LR 33:649 (April 2007), amended by Department of Health and Hospitals, Addictive Disorder Regulatory Authority, LR 38:1025 (April 2012).

LaMiesa D. Bonton
Executive Director

1204#019

RULE

Department of Health and Hospitals
Board of Medical Examiners

Clinical Laboratory Personnel, Licensure and Certification (LAC 46:XLV.3509)

The Louisiana State Board of Medical Examiners (board), pursuant to the authority of the Louisiana Medical Practice Act, R.S. 37:1261-1292, and in accordance with the provisions of the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., has amended its administrative rules governing licensure and certification of clinical laboratory personnel (CLP), LAC 46:XLV, Subpart 2, Chapter 35, Subchapter B, Section 3509. The amendments are set forth below.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLV. Medical Professions
Subpart 2. Licensure and Certification
Chapter 35. Clinical Laboratory Personnel
Subchapter B. Licensure and Certification Requirements
§3509. Qualifications for Licensure and Certification

A. Clinical Laboratory Scientist-Generalist. To be eligible for licensure as a clinical laboratory scientist-generalist an applicant, in addition to satisfaction of the procedural requirements for licensure under this Chapter, shall have successfully completed an approved nationally recognized certification examination for such clinical laboratory personnel classification as developed and administered by one of the following organizations or their successor organizations:

1. American Society of Clinical Pathologists (ASCP);
2. American Medical Technologists (AMT); or
3. American Association of Bioanalysts (AAB)

provided, however, that an applicant for licensure as a CLS-G who has, prior to January 1, 1995, successfully completed the certification examination for such clinical laboratory personnel classification developed and administered by the United States Department of Health, Education, and Welfare (HEW) (predecessor to the Department of Health and Human Services) shall also be eligible for licensure as a clinical laboratory scientist-generalist.

B. - B.2.g. ...

C. Clinical Laboratory Scientist-Technician. To be eligible for licensure as a clinical laboratory scientist-technician, an applicant, in addition to satisfaction of the procedural requirements for licensure under this Chapter, shall have successfully completed an approved nationally recognized certification examination for such clinical laboratory personnel classification, as developed and administered by one of the following organizations or their successor organizations:

1. American Society of Clinical Pathologists (ASCP);
2. American Medical Technologists (AMT); or
3. American Association of Bioanalysts (AAB).

D. - F.2.h. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(5) and R.S. 37:1311-1329.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1286 (November 1994), amended, LR 37:597 (February 2011), LR 37:2401 (August 2011), LR 38: 1026 (April 2012).

Robert L. Marier, M.D.
Executive Director

1204#036

RULE

Department of Insurance
Office of the Commissioner

Regulation 100—Coverage of Prescription Drugs through a Drug Formulary
(LAC 37:XIII.Chapter 141)

Pursuant to the authority granted in R.S. 22:11, R.S. 22:1068(F) and R.S. 22:1074(F), and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Insurance has promulgated Regulation 100. The purpose of Regulation 100 is to implement Act 350 of the 2011 Regular Session of the Louisiana Legislature pertaining to the coverage of prescription drugs through a drug formulary as set forth in R.S. 22:1060.1 et seq., which provides for the continuation of drug coverage and notice to enrollees of modifications of drugs on the drug formularies covered by a health insurance issuer. This action complies with the statutory law administered by the Department of Insurance.

Title 37
INSURANCE
Part XIII. Regulations
Chapter 141. Regulation 100—Coverage of Prescription Drugs through a Drug Formulary

§14101. Purpose

A. The purpose of Regulation 100 is to implement Act 350 of the 2011 Regular Session of the Louisiana Legislature pertaining to the coverage of prescription drugs through a drug formulary as set forth in R.S. 22:1060.1 et seq. which provides for the continuation of drug coverage and notice to enrollees regarding drug formularies covered by a health insurance issuer as well as any modifications made thereto. The purpose of Regulation 100 is to clarify the requirements and notice forms now mandated by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1068(F) and R.S. 22:1074(F).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 38:1027 (April 2012).

§14103. Authority

A. Regulation 100 is promulgated pursuant to the authority granted in R.S. 22:11, R.S. 22:1068F and R.S. 22:1074F.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1068(F) and R.S. 22:1074(F).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 38:1027 (April 2012).

§14105. Applicability and Scope

A. Regulation 100 applies to all health insurance issuers as well as health maintenance organizations as defined by R.S.22:1060.1(6).

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1068(F) and R.S. 22:1074(F).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 38:1027 (April 2012).

§14107. Definitions

A. Definitions. As used in Regulation 100, the following terms shall have the meaning or definition as indicated herein.

Commissioner—commissioner of insurance for the state of Louisiana.

Enrollee—any individual, including a dependent, who is enrolled or insured by a health insurance issuer under a health benefit plan.

Policy Form—an insurance contractual agreement delineating the terms, provisions and conditions of a particular insurance product. It includes certificates of coverage and any other evidence of coverage, subscriber agreements or application forms where written application is required and is to be attached to the policy or be a part of the contract, and any health and accident or health maintenance organization rider or endorsement form.

Particular Product—a basic insurance policy form delineating the terms, provisions and conditions of a specific type of coverage under a particular type of contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1068(F) and R.S. 22:1074(F).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 38:1027 (April 2012).

§14109. Required Notices

A. There shall be three different and distinct types of notice that a health insurance issuer is required to provide to every applicable enrollee. Each notice shall be filed with and approved by the Department of Insurance prior to use in Louisiana.

B. Notice and Disclosure of Drug Formulary Pursuant to R.S. 22:1060.2(A)(1)(e). A health insurance issuer shall file a "Notice and Disclosure of Drug Formulary" form with the Department of Insurance as a part of its coverage documentation. The "Notice and Disclosure of Drug Formulary" shall contain all of the information enumerated in R.S. 22:1060.2. A health insurance issuer shall submit this form for approval by the commissioner. Once the form is approved by the commissioner, the health insurance issuer shall only utilize said form. A health insurance issuer shall maintain written evidence such as a record, report or data compilation of enrollees who request disclosure or information about any specific drug that is included in a formulary. The written evidence such as a record, report, or data compilation shall include the name of the enrollee, the date of request, the date of response by the health insurance issuer and the specific drug requested. A health insurance issuer shall provide a copy of the written evidence such as a record, report or data compilation as described herein to the commissioner within 15 days of written request by the commissioner.

C. Notice that Enrollee Has Right to Continuation of Coverage Pursuant to R.S. 22:1060.3. A health insurance issuer shall notify an enrollee as a part of coverage documentation that the enrollee shall have the right to continue the coverage of any prescription drug that was approved or covered by the health insurance issuer, and that the coverage of such prescription drug shall be at the contracted benefit level until the renewal of the enrollee's current plan. A health insurance issuer shall maintain written evidence such as a record, report or data compilation of enrollees who request continuation of coverage and the name of the specific drug. The written evidence such as a record, report, or data compilation shall include the name of the enrollee, the date of request, the date of response by the health insurance issuer and the name of the specific drug requested. A health insurance issuer shall provide a copy of the written evidence such as a record, report or data

compilation as described herein to the commissioner within 15 days of written request by the commissioner.

D. Notice of Modification-Group Market Pursuant to R.S. 22:1068(D)(3) and Individual Market Pursuant to R.S. 22:1074(D)(3). A "Notice of Modification of Benefit Coverage or Drug Coverage of a Particular Product" form is required to contain the information required in R.S. 22:1068(D)(3) and 22:1074(D)(3). Such form used by a health insurance issuer shall be approved by the commissioner and no form may be used until approved by the commissioner. For group policies, such notice shall be delivered to the affected covered small group or large group employer and all enrollees at the last known address no later than the sixtieth day before any modification of benefit coverage or drug coverage of a particular product is to become effective. For individual policies, such notice shall be delivered to each affected individual at the last known address no later than the sixtieth day before any modification of benefit coverage or drug coverage of a particular product is to become effective.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1068(F) and R.S. 22:1074(F).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 38:1027 (April 2012).

§14111. Requirements for the Modification Affecting Drug Coverage

A. A modification affecting drug coverage shall mean any of the following:

1. removing a drug from a formulary;
2. adding a requirement that an enrollee receive prior authorization for a drug;
3. imposing or altering a quantity limit for a drug;
4. imposing a step-therapy restriction for a drug;
5. moving a drug to a higher cost-sharing tier, unless a generic alternative is available.

B. A health insurance issuer shall submit a modification affecting drug coverage for approval by the commissioner 120 days prior to the renewal date of the policy form as to those modifications enumerated in R.S. 22:1061(5) and set forth in §14111.A herein. Once the modification affecting drug coverage is approved by the commissioner, a health insurance issuer shall provide the notice of modification affecting drug coverage as provided for in R.S. 22:1068(D)(3) and R.S. 22:1074(D)(3) and shall only then have the authority to modify the policy or contract of insurance at the renewal of the policy or contract of insurance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1068(F) and R.S. 22:1074(F).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 38:1028 (April 2012).

§14113. Enrollee's Right to Appeal Adverse Determination

A. The refusal of a health insurance issuer to provide benefits to an enrollee for a prescription drug is an adverse determination for the purposes of Subpart F of Part III of Chapter 4 of the Louisiana Insurance Code, R.S. 22:1121 et seq., relative to medical necessity review organizations, if each of the following conditions is met.

1. The drug is not included in a drug formulary used by the health benefit plan.
2. The enrollee's physician or other authorized prescriber has determined the drug is medically necessary.

B. An enrollee may appeal the adverse determination pursuant to subpart F of part III of chapter 4 of the Louisiana Insurance Code, R.S. 22:1121 et seq., relative to medical necessity review organizations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1068(F) and R.S. 22:1074(F).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 38:1028 (April 2012).

§14115. Requirements for Modifying a Group Insurance Product

A. Pursuant to R.S. 22:1068, a health insurance issuer may modify its drug coverage offered to a group health plan if each of the following conditions is met.

1. The modification occurs at the time of coverage renewal.
2. The modification is approved by the commissioner.
3. The modification is consistent with state law.
4. The modification is effective on a uniform basis among all small or large employers covered by that group health plan.
5. The health insurance issuer, on the form approved by the Department of Insurance, notifies the small or large employer group and each enrollee therein of the modification no later than the sixtieth day before the date the modification is to become effective.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 and R.S. 22:1068(F).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 38:1028 (April 2012).

§14117. Requirements for Modifying an Individual Insurance Product

A. Pursuant to R.S. 22:1074, a health insurance issuer may modify its drug coverage offered to individuals if each of the following conditions is met.

1. The modification occurs at the time of coverage renewal.
2. The modification is approved by the commissioner.
3. The modification is consistent with state law.
4. The modification is effective on a uniform basis among all individuals with that policy form.
5. The health insurance issuer, on a form approved by the Department of Insurance, notifies each affected individual of the modification no later than the sixtieth day before the date the modification is to become effective.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 and R.S. 22:1074(F).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 38:1028 (April 2012).

§14119. Modification Affecting Drug Coverage; Approval by the Commissioner

A. To facilitate the ability of the commissioner to comply with his statutory duty, the commissioner shall have the authority to enter into a contract with any person or entity he deems applicable, relevant and/or appropriate to provide advice and/or make a recommendation to the commissioner regarding whether he should approve or deny any modification affecting drug coverage that requires prior approval from the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1068(F) and R.S. 22:1074(F).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 38:1028 (April 2012).

James J. Donelon
Commissioner

1204#048

RULE

Department of Treasury
Registrars of Voters Employees' Retirement System

Retirement System Trustees Election Procedures
(LAC 58:XVII.Chapter 1)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the board of trustees for the Registrars of Voters Employees' Retirement System has approved these rules for the election procedure for the system's board of trustees. The rules are being adopted pursuant to section 2 of La. S.B. 2, Reg. Sess. 2011, Act 119 which provides that the board of trustees shall promulgate rules that govern the election of members of the board. This action by the Registrars of Voters Employees' Retirement System complies with statutory law administered by the agency and is promulgated in accordance with that section 2. A preamble to this action has not been prepared.

Title 58
RETIREMENT
Part XVII. Registrars of Voters Employees' Retirement System
Chapter 1. Procedures for Election of Registrars of Voters Employees' Retirement System Trustees

§101. General Election Procedures

A. The director shall issue to the Registrars of Voters Employees' Retirement System membership a notice of each trustee office to be filled between the first Monday in July and the second Friday in July via email, with qualifying form attached and placed on the website, such form to require applicant's name, parish, date started in system, and for which seat the applicant is qualifying.

B. Candidates shall submit in writing to the director their intention to run for a specified office between the third Monday and the fourth Friday of July. The board of trustees shall designate a qualifying form. The designated qualifying form shall be posted on the website and/or mailed to the member.

C. These July dates will differ only for the first year, 2011, in which the notice shall be issued as soon as reasonably possible and the notice shall adjust the time for qualifying only as minimally as possible in order to maintain the remainder of the timetable below.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:2091(B) and (C) et seq.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Registrars of Voters Employees' Retirement System, LR 38:1029 (April 2012).

§103. Ballots, Count, Tabulation, Posting, Oath of Office

A. The director shall compile a ballot for each office to be filled. Ballots shall be mailed to the membership at their home address beginning the first Tuesday through the second Friday of September. The ballots shall be issued to members who were active employees as of June 30 of that year and the member must be an active employee as of the date the system counts the ballot in order for that member's ballot to be counted. In addition to the ballot the director shall mail an affidavit as specified by the board of trustees, a return envelope and instructions. The director shall inform each member in this mailing that results of the vote shall be promulgated on the system's website in late November or early December. Voted ballots shall be accepted through the first Friday in October at 4:30 p.m. A date and time shall be placed on each ballot envelope received by the director across the envelope flap.

B. Ballots shall be held inviolate by the director. The chairman of the board shall call a special meeting to count and tabulate ballots between the first Monday in November and the last Friday in November. At this special meeting the board of trustees shall promulgate the returns and announce the results.

1. The director shall post the results of the promulgation on ROVERS' website. The director shall email each registrar notification of this posting and each registrar shall be required to download and print and post this notice in each of the registrar's offices.

2. The director shall issue to the elected trustee an oath of office. The trustee shall take the oath in the month of December and file a copy with their respective clerk of court. A copy of said oath shall be forwarded to the director. The oath shall contain a term of office effective January 1st of the following year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:2091(B) and (C) et seq.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Registrars of Voters Employees' Retirement System, LR 38:1029 (April 2012).

§105. Vacancy

A. Should a vacancy occur, the board shall appoint a replacement member to serve until the next regularly scheduled election. The election to fill this seat will be to fill the unexpired term of this office, unless the seat was expiring and was to be filled at the next election, in which case the election will be to fill the new term

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:2091(B) and (C) et seq.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Registrars of Voters Employees' Retirement System, LR 38:1029 (April 2012).

Lorraine C. Dees
Director

1204#020

RULE

Department of Transportation and Development
Professional Engineering and Land Surveying Board

Definitions (LAC 46:LXI.105)

Editor's Note: The following Rule is being repromlgated to correct a typographical error. The original Rule can be viewed on pages 835-836 of the March 20,2012 edition of the *Louisiana Register*.

Under the authority of the Louisiana Professional Engineering and Land Surveying Licensure Law, R.S. 37:681 et seq., and in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana Professional Engineering and Land Surveying Board has amended its rules contained in LAC 46:LXI.Chapters 1-33.

This is a technical revision of an existing Rule under which LAPELS operates. This change clarifies the requirement that certain types of surveying and mapping functions must be performed by or under the responsible charge of either a professional engineer or a professional land surveyor.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LXI. Professional Engineers and Land Surveyors
Chapter 1. General Provisions
§105. Definitions

A. The words and phrases defined in R.S. 37:682 shall apply to these rules. In addition, the following words and phrases shall have the following meanings, unless the content of the rules clearly states otherwise.

* * *

Practice of Land Surveying—defined in R.S. 37:682. The board recognizes that there exists a close relationship between land surveying and some areas of engineering, with some activities common to both professions; however, survey work related to property boundaries must be performed under the responsible charge of a professional land surveyor. Presented below are guidelines which shall be used as an aid in determining the types of surveying services which may be rendered by professional land surveyors or professional engineers.

a. - b.viii. …

c. Surveying and mapping functions which do not require the establishment of the relationship of property ownership boundaries must be performed by or under the responsible charge of either a professional engineer or a professional land surveyor. Such surveying and mapping functions include:

c.i. - d. …

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Surveyors, LR 4:298 (August 1978), amended LR 5:110 (May 1979), LR 7:643 (December 1981), LR 14:449 (July 1988), LR 16:772 (September 1990), LR 17:804 (August 1991), LR 20:901 (August 1994), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1020 (July 2001), LR 30:1704 (August 2004), LR 32:1618 (September 2006), LR 35:1908 (September 2009), LR 38:835 (March 2012), repromulgated LR 38:1030 (April 2012).

Donna D. Sentell
Executive Director

1204#038

RULE

Workforce Commission
Office of Workers' Compensation

Utilization Review Procedures
(LAC 40:I.Chapter 27)

The Office of Workers' Compensation published a Notice of Intent to amend its rules in the December 20, 2011 edition of the *Louisiana Register*. The notice solicited written comments. As a result of its analysis of the written comments received, the OWCA proposes the final Rule to read as follows.

Title 40
LABOR AND EMPLOYMENT
Part I. Workers' Compensation Administration
Subpart 2. Medical Guidelines
Chapter 27. Utilization Review Procedures
§2701. Statement of Policy

A. - A.2. …

B. The law provides that after the promulgation of the medical treatment schedule, medical care, services, and treatment due, pursuant to R.S. 23:1203 et seq., by the employer to the employee incurred in the treatment of work-related injuries or occupational diseases [hereinafter referred to as "illness(es)"] shall mean care, services, and treatment in accordance with the medical treatment schedule.

1. …

2. It is also deemed to be in the best interest of all of the parties in the system that fees for services reasonably performed and billed in accordance with the reimbursement schedule should be promptly paid. Not paying or formally contesting such bills by filing LWC-WC-1008 (disputed claim for compensation), with the Office of Workers' Compensation within 60 days of the date of receipt of the bill may subject the carrier/self-insured employer to penalties and attorneys fees. Additionally, frivolous contesting of the bill may subject the carrier/self-insured employer to penalties and attorneys fees.

3. - 7. …

AUTHORITY NOTE: Promulgated in accordance with RS 23:1291.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Workers' Compensation, LR 17:263 (March 1991), repromulgated LR 17:653 (July 1991), amended by the Louisiana Workforce Commission, Office of Workers' Compensation, LR 38:1030 (April 2012).

§2715. Medical Treatment Schedule Authorization and Dispute Resolution

A. Purpose. It is the purpose of this Section to facilitate the management of medical care delivery, assure an orderly and timely process in the resolution of care-related disputes; identify the required medical documentation to be provided to the carrier/self-insured employer to initiate a request for authorization as provided in R.S. 23:1203.1(J); and provide for uniform forms, timeframes, and terms for suspension of prior authorization process, withdrawal of request for authorization, authorization, denial, and dispute resolution in accordance with R.S. 23:1203.1.

B. Statutory Provisions

1. Emergency Care

a. In addition to all other utilization review rules and procedures, R.S. 23:1142 provides that no prior consent by the carrier/self-insured employer is required for any emergency medical procedure or treatment deemed immediately necessary by the treating health care provider. Any health care provider who authorizes or orders diagnostic testing or treatment subsequently held not to have been of an emergency nature shall be responsible for all of the charges incurred in such testing or treatment. Such health care provider shall bear the burden of proving the emergency nature of the diagnostic testing or treatment.

b. Fees for those services of the health care provider held not to have been of an emergency nature shall not be an enforceable obligation against the employee or the employer or the employer's workers' compensation insurer unless the employee and the payor have agreed upon the treatment or diagnostic testing by the health care provider.

2. Non-Emergency Care. In addition to all other utilization review rules and procedures, the law (R.S. 23.1142) establishes a monetary limit for non-emergency medical care. No health care provider shall incur more than a total of $750 in non-emergency diagnostic testing or treatment without the mutual consent of the carrier/self-insured employer and the employee. The statute further provides significant penalties for a carrier's/self-insured employer's arbitrary and capricious refusal to approve necessary care beyond that limit.

3. Medical Treatment Schedule

a. In addition to all other utilization review rules and procedures, R.S. 23:1203.1 provides that after the promulgation of the medical treatment schedule, medical care, services, and treatment due, pursuant to R.S. 23:1203 et seq., by the employer to the employee shall mean care, services, and treatment in accordance with the medical treatment schedule.

b. Pursuant to R.S. 23:1203.1(I), medical care, services, and treatment that varies from the promulgated medical treatment schedule shall also be due by the employer when it is demonstrated to the medical director of the Office of Workers' Compensation by a preponderance of the scientific medical evidence, that a variance from the medical treatment schedule is reasonably required to cure or relieve the injured worker from the effects of the injury or occupational disease given the circumstances.

c. Pursuant to R.S. 23:1203.1(M), with regard to all treatment not covered by the medical treatment schedule , all medical care, services, and treatment shall be in accordance with Subsection D of R.S. 23:1203.1.

d. All requests for authorization of care beyond the statutory non-emergency monetary limit of $750 are to be presented to the carrier/self-insured employer. In accordance with these Utilization Review Rules, the carrier/self-insured employer or a utilization review company acting on its behalf shall determine if such request is in accordance with the medical treatment schedule. If the request is denied or approved with modification and the health care provider determines to request a variance from the medical director, then a LWC-WC-1009 shall be filed as provided in Subsection G of this Section.

e. Disputes shall be filed by any aggrieved party on a LWC-WC-1009 within 15 calendar days of receipt of the denial or approval with modification of a request for authorization. The medical director shall render a decision as soon as practicable, but in no event later than 30 calendar days from the date of filing. The decision shall determine whether:

i. the recommended care, services, or treatment is in accordance with the medical treatment schedule; or

ii. a variance from the medical treatment schedule is reasonably required; or

iii. the recommended care, services, or treatment that is not covered by the medical treatment schedule is in accordance with another state's adopted guideline pursuant to Subsection D of R.S. 23:1203.1.

f. In accordance with LAC 40:I.5507.C, any party feeling aggrieved by the R.S. 23:1203.1(J) determination of the medical director shall seek a judicial review by filing a Form LWC-WC-1008 in a workers' compensation district office within 15 calendar days of the date said determination is mailed to the parties. A party filing such appeal must simultaneously notify the other party that an appeal of the medical director's decision has been filed. Upon receipt of the appeal, the workers' compensation judge shall immediately set the matter for an expedited hearing to be held not less than 15 days nor more than 30 calendar days after the receipt of the appeal by the office. The workers' compensation judge shall provide notice of the hearing date to the parties at the same time and in the same manner.

g. R.S. 23:1203.1(J) provides that after a health care provider has submitted to the carrier/self-insured employer the request for authorization and the information required pursuant to this Section, the carrier/self-insured employer shall notify the health care provider of their action on the request within five business days of receipt of the request.

C. Minimum Information for Request of Authorization

1. Initial Request for Authorization. The following criteria are the minimum submission by a health care provider requesting care beyond the statutory non-emergency medical care monetary limit of $750 and will accompany the LWC-WC-1010:

a. history provided to the level of the condition and as provided in the medical treatment schedule;

b. physical findings/clinical tests;

c. documented functional improvements from prior treatment, if applicable;

d. test/imaging results; and

e. treatment plan including services being requested along with the frequency and duration.

2. To make certain that the request for authorization meets the requirements of this Subsection, the health care provider should review the medical treatment schedule for each area(s) of the body to obtain specific detailed information related to the specific services or diagnostic testing that is included in the request. Each section of the medical treatment schedule contains specific recommendations for clinical evaluation, treatment and imaging/testing requirements. The medical treatment guidelines can be viewed on Louisiana's Workforce Commission website. The specific URL is http://www.laworks.net/WorkersComp/OWC_MedicalGuidelines.asp.

3. Subsequent Request for Authorizations. After the initial request for authorization, subsequent requests for additional diagnostic testing or treatment does not require that the healthcare provider meet all of the initial minimum requirements listed above. Subsequent requests require only updates to the information of Subparagraph 1.a-e above. However such updates must demonstrate the patient's current status to document the need for diagnostic testing or additional treatment. A brief history, changes in clinical findings such as orthopedic and neurological tests, and measurements of function with emphasis on the current, specific physical limitations will be important when seeking approval of future care. The general principles of the medical treatment schedule are:

a. the determination of the need to continue treatment is based on functional improvement; and

b. the patient's ability (current capacity) to return to work is needed to assist in disability management.

D. Submission and Process for Request for Authorization

1. To initiate the request for authorization of care beyond the statutory non-emergency medical care monetary limit of $750 per health care provider, the health care provider shall submit LWC-WC-1010 along with the required information of this Section by fax or email to the carrier/self insured employer.

2. The carrier/self-insured employer shall provide to the OWC a fax number and/or email address to be used for purposes of these rules and particularly for LWC-WC-1010 and 1010A. If the fax number and/or email address provided is for a utilization review company contracted with the carrier/self-insured employer, then the carrier/self-insured employer shall provide the name of the utilization review company to the OWC. All carrier/self-insured employer fax numbers and/or email addresses provided to the OWC will be posted on the office's website at www.laworks.net. If the fax number or e-mail address is for a contracted utilization review company, then the OWC will also post on the web the name of the utilization review company. When requesting authorization and sending the LWC-WC-1010 and 1010A, the health care provider shall use the fax number and/or email address found on the OWC website.

3. Pursuant to R.S. 23:1203.1, the five business days to act on the request for authorization does not begin for the carrier/self-insured employer until the information of Subsection C and LWC-WC-1010 is received. In the absence of the submission of such information, any denial of further non-emergency care by the carrier/self-insured employer is prima facie, not arbitrary and capricious.

E. First Request

1. If a carrier/self-insured employer determines that the information required in Subsection C of this Section has not been provided, then the carrier/self-insured employer shall, within five business days of receipt of LWC-WC-1010, notify the health care provider of its determination. Notice shall be by fax or e-mail to the healthcare provider and shall include the provider-submitted LWC-WC-1010 with the "first request" section completed to indicate a delay due to lack of information and LWC-WC-1010A identifying the information that was not provided. A copy of the LWC-WC-1010 and all information faxed or emailed to the health care provider shall also be faxed or emailed to the claimant attorney, if any. On the same business day, a copy of the LWC-WC-1010 and all information faxed or emailed to the health care provider shall also be sent by regular mail to the claimant's last known address.

a. The health care provider must respond by fax or e-mail to the carrier/self-insured employer's request for additional information within 10 business days of receipt of the request.

b. If the health care provider agrees that the additional information from the first request is due, then such information shall be provided along with LWC-WC-1010 and 1010A.

c. If the health care provider disagrees that the additional information in the first request is due, then the health care provider shall return the LWC-WC-1010 and 1010A with an explanation describing why the health care provider believes all required information has been previously provided.

d. If the health care provider fails to respond to the first request within 10 business days of receipt, then such failure to respond shall result in a withdrawal of the request for authorization without further action by the OWC or the carrier/self-insured employer. In order to obtain authorization for care the health care provider will be required to initiate a new request for authorization with a new LWC-WC-1010 pursuant to this Section.

e. The carrier/self-insured employer must respond by fax or e-mail within five business days of receipt of a timely submitted response from the health care provider:

i. if the health care provider responds timely with additional information and the carrier/self-insured employer determines that the requested information has been provided, then the carrier/self-insured employer has five business days to act on the request for authorization pursuant to R.S. 23:1203.1(J) and these rules. Subsection G of this Section provides the rules regarding whether a request for authorization is approved, approved with modification, or denied;

ii. if the health care provider responds timely with additional information but the carrier/self-insured employer determines that the requested information has again not been provided, then the carrier/self-insured employer shall return LWC-WC-1010 to the health care provider, and indicate suspension of prior authorization process due to lack of information;

iii. if the health care provider responds timely with the appropriate forms and an explanation as to why no additional information is necessary; and

iv. the carrier/self-insured employer determines that the request for information has been satisfied, then the carrier/self-insured employer has five business days to act on the request for authorization pursuant to R.S. 23:1203.1(J) and these rules. Subsection G of this Section provides the rules regarding whether a request for authorization is approved, approved with modification, or denied;

v. the carrier/self-insured employer determines that the requested information has still not been provided, then the carrier/self-insured employer shall return to the health care provider the LWC-WC-1010 indicating suspension of prior authorization process due to lack of information.

2.a. A carrier/self-insured employer who fails to return LWC-WC-1010 within the five business days as

provided in this Subsection is deemed to have denied such request for authorization. A health care provider, claimant, or claimant's attorney if represented who chooses to appeal a denial pursuant to this Subsection shall file a LWC-WC-1009 pursuant to Subsection J of this Section.

b. A request for authorization that is deemed denied pursuant to this Subparagraph may be approved by the carrier/self-insured employer within 10 calendar days of being deemed denied. The approval will be indicated in section 3 of LWC-WC-1010. The medical director shall dismiss any appeal that may have been filed by a LWC-WC-1009. The carrier/self-insured employer shall be given a presumption of good faith regarding the decision to change the denial to an approval provided that the LWC-WC-1010 which indicates "approved" in section 3 is faxed or emailed within the 10 calendar days.

F. Appeal of Suspension of Prior Authorization Process

1. If the health care provider disagrees with the suspension of prior authorization process, the provider, within five business days of receipt of the suspension, shall file an appeal with the medical services section of the OWC. The appeal shall include:

a. a copy of the LWC-WC-1010 submitted to the carrier/self-insured employer. The health care provider should complete the appropriate section of the form indicating that an appeal is being requested; and

b. a copy of LWC-WC-1010A; and

c. a copy of all information previously submitted to the carrier/self-insured employer.

2. The medical services section shall, within 10 business days of receipt of the filed LWC-WC-1010:

a. determine whether the information provided satisfied the provisions of Subsection C of this Section; and

b. issue a written determination to the health care provider, claimant and carrier/self-insured employer.

3. If the medical services section determines that the requested information was not provided, then the health care provider will be required to submit the information to the carrier/self-insured employer within five business days of receipt of the decision of the medical services section.

a. If the information is provided as required by decision of the medical services section, the carrier/self-insured employer shall have five business days to act on the request for authorization pursuant to R.S. 23:1203.1(J) and these rules. Subsection G of this Section provides the rules regarding a request for authorization being approved, approved with modification, or denied.

b. Failure of the health care provider to provide the information within five business days of receipt of the decision of the medical services section shall result in a withdrawal of the request for authorization without further action by the OWC or the carrier/self-insured employer. In order to obtain authorization, the medical provider will be required to initiate a new request for authorization pursuant to this Section.

4. If the medical services section determines that the requested information was provided, then within five business days of receipt of the decision of the medical services section decision, the carrier/self-insured employer shall act on the request for authorization pursuant to R.S. 23:1203.1(J) and these rules with the information as previously provided. Subsection G of this Section provides the rules regarding a request for authorization being approved, approved with modification, or denied.

5. Failure of the carrier/self-insured employer to act on the request within the five business days will be deemed a denial of the request for authorization. A health care provider, claimant, or claimant's attorney if represented who chooses to appeal a denial pursuant to this subparagraph shall file a LWC-WC-1009 pursuant to Subsection J of this Section.

6. A request for authorization that is deemed denied pursuant to this subparagraph may be approved by the carrier/self-insured employer within 10 calendar days of being deemed denied. The approval will be indicated in section 3 of LWC-WC-1010. The medical director shall dismiss any appeal that may have been filed by a LWC-WC-1009. The carrier/self-insured employer shall be given a presumption of good faith regarding the decision to change the denial to an approval provided that the LWC-WC-1010 which indicates "approved" in section 3 is faxed or emailed within the 10 calendar days.

G. Approval or Denial of Authorization for Care

1. Request for authorization covered by the medical treatment schedule. Upon receipt of the LWC-WC-1010 and the required medical information in accordance with this Section, the carrier/self-insured employer shall have five business days to notify the health care provider of the carrier/self-insured employer's action on the request. Based upon the medical information provided pursuant to this Section the carrier/self-insured employer will determine whether the request for authorization is in accordance with the medical treatment schedule:

a. the carrier/self-insured employer will return to the health care provider Form 1010, and indicate in the appropriate section on the form that "The requested treatment or testing is approved" if the request is in accordance with the medical treatment schedule; or

b. the carrier/self-insured employer will return to the health care provider, claimant, and the claimant's attorney if one exists, the LWC-WC-1010, and indicate in the appropriate section on the form "The requested treatment or testing is approved with modification" if the carrier/self-insured employer determines that modifications are necessary in order for the request for authorization to be in accordance with the medical treatment schedule, or that a portion of the request for authorization is denied because it is not in accordance with the medical treatment schedule. The carrier/self insured employer shall include with the LWC-WC-1010 a summary of reasons why a part of the request for authorization is not in accordance with the medical treatment schedule and explain any modification to the request for authorization. The LWC-WC-1010 and the summary of reasons shall be faxed or emailed to the health care provider and to the claimant attorney, if any. On the same business day, a copy of the LWC-WC-1010 and the summary of reasons shall also be sent by regular mail to the claimant's last known address; or

c. the carrier/self-insured employer will return to the health care provider, the claimant, and the claimant's attorney if one exists, the LWC-WC-1010, and indicate in the appropriate section on the form "the requested treatment or testing is denied" if the carrier/self-insured employer determines that the request for authorization is not in

accordance with the medical treatment schedule. The carrier/self-insured employer shall include with the LWC-WC-1010 a summary of reasons why the request for authorization is not in accordance with the medical treatment schedule. The LWC-WC-1010 and the summary of reasons shall be faxed or mailed to the health care provider and to the claimant attorney, if any. On the same business day, a copy of the LWC-WC-1010 and the summary of reasons shall also be sent by regular mail to the claimant's last known address.

2. Request for Authorization not Covered by the Medical Treatment Schedule. Requests for authorization of medical care, services, and treatment that are not covered by the medical treatment schedule in accordance to R.S. 23:1203.1(M), must follow the same prior authorization process established for all other requests for medical care, services, and treatment. A request for authorization that is not covered by the medical treatment schedule exists when the requested care, services, or treatment are for a diagnosis not addressed by the medical treatment schedule. The health care Provider requesting care, services, or treatment that is not covered by the medical treatment schedule may submit documentation sufficient to establish that the request is in accordance with R.S. 23:1203.1(D). After timely receipt of the LWC-WC-1010, the submitted documentation if any, and the required medical information in accordance with this Section, the carrier/self-insured employer shall determine whether the request for authorization is in accordance with R.S. 23:1203.1(D). In making this determination, the carrier/self-insured employer shall review the submitted documentation, but may apply another guideline that meets the criteria of R.S. 23:1203.1(D). The carrier/self-insured employer has five business days to notify the health care provider of the carrier/self-insured employer's action on the request:

a. the carrier/self-insured employer will return to the health care provider the LWC-WC-1010, and indicate in the appropriate section on the form that "The requested treatment or testing is approved" if the request is in accordance with R.S. 23:1203.1(D); or

b. the carrier/self-insured employer will return to the health care provider, claimant, and the claimant's attorney if one exists, the LWC-WC-1010, and indicate in the appropriate section on the form "The requested treatment or testing is approved with modification" if the carrier/self-insured employer determines that modifications are necessary in order for the request for authorization to be in accordance with R.S. 23:1203.1(D), or that a portion of the request for authorization is denied because it is not in accordance with R.S.23:1203.1(D). The carrier/self insured employer shall include with the LWC-WC-1010 a summary of reasons why a part of the request for authorization is not in accordance with R.S. 23:1203.1(D). The LWC-WC-1010 and the summary of reasons shall be faxed or emailed to the health care provider and to the claimant attorney, if any. On the same business day a copy of the LWC-WC-1010 and the summary of reasons shall also be sent by regular mail to the claimant's last known address; or

c. the carrier/self-insured employer will return to the health care provider, the claimant, and the claimant's attorney if one exists, the LWC-WC-1010, and indicate in the appropriate section on the form "the requested treatment or testing is denied" if the carrier/self-insured employer determines that the request for authorization is not in accordance with R.S. 23:1203.1(D). The carrier/self-insured employer shall include with the LWC-WC-1010 a summary of reasons why the request for authorization is not in accordance with R.S. 23:1203.1(D). The LWC-WC-1010 and the summary of reasons shall be faxed or emailed to the health care provider and to the claimant attorney, if any. On the same business day a copy of the LWC-WC-1010 and the summary of reasons shall also be sent by regular mail to the claimant's last known address.

3. Summary of Reasons. The summary of reasons provided by the carrier/self-insured employer with the approval with modification or denial shall include:

i. the name of the employee;

ii. the date of accident;

iii. the name of the health care provider requesting authorization;

iv. the decision (approved with modification, denied);

v. the clinical rationale to include a brief summary of the medical information reviewed;

vi. the criteria applied to include specific references to the medical treatment schedule, or to the guidelines adopted in another state if the requested care, services or treatment is not covered by the medical treatment schedule; and

vii. a Section labeled "Voluntary Reconsideration" pursuant to Paragraph I.2 of this Section that includes a phone number that will allow the health care provider to speak to a person with the carrier/self-insured employer or its utilization review company with authority to reconsider a denial or approval with modification.

4. Upon receipt of the LWC-WC-1010 and the required medical information in accordance with this Section, the carrier/self-insured employer shall have five business days to notify the health care provider of the carrier/self-insured employer's action on the request. Based upon the medical information provided pursuant to this Section, and other information known to the carrier/self-insured employer at the time of the request for authorization, the carrier will return to the health care provider, claimant, and claimant's attorney if one exists, the LWC-WC-1010 and indicate in the appropriate section on the form "the requested treatment or testing is denied because:

a. "the request for authorization or a portion thereof is not related to the on-the-job injury;" or

b. "the claim is non-compensable;" or

c. "other" and provide a brief explanation for the basis of denial.

5. The LWC-WC-1010 and the summary of reasons shall be faxed or emailed to the health care provider and the claimant attorney, if any. On the same business day a copy of the LWC-WC-1010 and the summary of reasons shall also be sent by regular mail to the claimant's last known address.

H. Failure to respond by carrier/self-insured employer. a carrier/self-insured employer who fails to return LWC-WC-1010 with section 3 completed within the five business days to act on a request for authorization as provided in this Section is deemed to have denied such request for authorization. A health care provider, claimant, or claimant's attorney if represented who chooses to appeal a denial

pursuant to this Subparagraph shall file a LWC-WC-1009 pursuant to Subsection J of this Section.

I. Reconsideration Prior to LWC-WC-1009 Decision

1. R.S. 23:1203.1(L) provides that it is the intent of the legislature that, with establishment of the medical treatment schedule, medical and surgical treatment, hospital care, and other health care provider services shall be delivered in an efficient and timely manner to injured employees.

2. In furtherance of that goal, the LWC-WC-1010 and the summary of reasons provided by the carrier/self-insured employer with the denial or approved with modification will include a statement that the health care provider is encouraged to contact the carrier/self insured employer to discuss reconsideration of the denial or approval with modification. The carrier/self insured employer shall include on the summary of reasons a section labeled "voluntary reconsideration," and include a phone number that will allow the health care provider to speak to a person with the carrier/self-insured employer or its utilization review company with authority to reconsider the previous denial or approval with modification.

3. Reconsideration after denied or approved with modification. If the carrier/self-insured employer determines that the requested care should now be approved, it will return to the health care provider, the claimant, and the claimant's attorney if one exists within 10 calendar days of the denial or approval with modification, the LWC-WC-1010, and in the appropriate section on the form indicate "the prior denied or approved with modification request is now approved." Such approval ends the utilization review process as it relates to the request. A LWC-WC-1009 or 1008 shall not be filed regarding such request. The carrier/self-insured employer shall be given a presumption of good faith regarding the decision to change its decision of denied or approved with modification to approved after discussing the request with the health care provider.

4. Reconsideration after deemed denied due to failure to respond. A request for authorization that is deemed denied pursuant to Subsection H of this Section may be approved by the carrier/self-insured employer within 10 calendar days of the request for authorization as indicated on the LWC-WC-1010. The approval will be indicated in Section 3 of LWC-WC-1010. The medical director shall dismiss any appeal that may have been filed by a LWC-WC-1009. The carrier/self-insured employer shall be given a presumption of good faith regarding the decision to change the denial to an approval provided that the LWC-WC-1010 which indicates "approved" in Section 3 is faxed or emailed within 10 calendar days of the request for authorization.

J. Review of denial, approved with modification, deemed denied, or variance by LWC-WC-1009.

1. Any aggrieved party who disagrees with a request for authorization that is denied, approved with modification, deemed denied pursuant to Paragraphs E.2, F.5, and Subsection H, or who seeks a determination from the medical director with respect to medical care, services, and treatment that varies from the medical treatment schedule shall file a request for review with the OWC. The request for review shall be filed within 15 calendar days of:

a. receipt of the LWC-WC-1010 by the health care provider indicating that care has been denied or approved with modification; or

b. the expiration of the fifth business day without response by the carrier/self-insured employer pursuant to Paragraphs E.2, F.5, and Subsection H of this Section.

2. The request for review shall include:

a. LWC-WC-1009 which shall state the reason for review is either;

i. a request for authorization that is denied; or

ii. a request for authorization that is approved with modification; or

iii. a request for authorization that is deemed denied pursuant to Paragraphs, E.2, F.5, and Subsection H; or

iv. a variance from the medical treatment schedule is warranted; and

b. a copy of LWC-WC-1010 which shows the history of communications between the health care provider and the carrier/self-insured employer that finally resulted in the request being denied or approved with modification; and

c. all of the information previously submitted to the carrier/self-insured employer; and

d. in cases where a variance has been requested, the health care provider or claimant shall also provide any other evidence supporting the position of the health care provider or the claimant including scientific medical evidence demonstrating that a variance from the medical treatment schedule is reasonably required to cure or relieve the claimant from the effects of the injury or occupational disease given the circumstances.

3. In cases where the requested care, services, or treatment are not covered by the medical treatment schedule pursuant to R.S. 23:1203.1(M):

i. the health care provider may also submit with the LWC-WC-1009 the documentation provided to the carrier/self-insured employer pursuant to Paragraph G.2 of this Section; and

ii. the carrier/self-insured employer may submit to the medical director within five business days of receipt of the LWC-WC-1009 from the health care provider or claimant the documentation used to deny or approve with modification the request for authorization pursuant to R.S. 23:1203.1(D). A copy of the information being submitted to the medical director must be provided by fax or email to the health care provider and claimant attorney, if any, and on the same business day to the claimant by regular mail at his last known address.

4. The health care provider or claimant filing the LWC-WC-1009 shall certify that such form and all supporting documentation has been sent to the carrier/self-insured employer by email or fax. The OWC shall notify all parties of receipt of a LWC-WC-1009.

5.a. Within five business days of receipt of the LWC-WC-1009 from the health care provider or claimant, the carrier/self-insured employer shall provide to the medical director, with a copy going to the health care provider or claimant attorney, if any, via fax or email and on the same business day to the claimant via regular mail at his last known address, any evidence it thinks pertinent to the decision regarding the request being denied, approved with

modification, deemed denied, or that a variance from the medical treatment schedule is warranted.

b. The medical director shall within 30 calendar days of receipt of the LWC-WC-1009, and consideration of any medical evidence from the carrier/self-insured employer if provided within such five business days, render a decision as to whether the request for authorization is medically necessary and is:

i. in accordance with the medical treatment schedule: or

ii. in accordance with R.S. 23:1203.1(D) if such request is not covered by the medical treatment schedule, or

iii. whether the health care provider or claimant demonstrates by a preponderance of the scientific medical evidence that a variance from the medical treatment schedule is reasonably required. The decision of the medical director shall be provided in writing to the health care provider, claimant, claimant's attorney if one exists, and Carrier/ Self-Insured Employer.

c. The decision of the medical director shall include:

i. the date the decision is mailed; and

ii. the name of the employee; and

iii. the date of accident; and

iv. the decision of the medical director; and

v. the clinical rational to include a summary of the medical information reviewed; and

vi. the criteria applied to make the LWC-WC-1009 decision.

K. Appeal of 1009 Decision by Filing 1008

1. In accordance with LAC 40:I.5507.C, any party feeling aggrieved by the R.S. 23:1203.1(J) determination of the medical director shall seek a judicial review by filing a Form LWC-WC-1008 in a workers' compensation district office within 15 calendar days of the date said determination is mailed to the parties. The filed LWC-WC-1008 shall include a copy of the LWC-WC-1009 and the decision of the medical director. A party filing such appeal must simultaneously notify the other party that an appeal of the medical director's decision has been filed. Upon receipt of the appeal, the workers' compensation judge shall immediately set the matter for an expedited hearing to be held not less than 15 calendar days nor more than 30 calendar days after the receipt of the appeal by the office. The workers' compensation judge shall provide notice of the hearing date to the parties at the same time and in the same manner. The decision of the medical director may only be overturned when it is shown, by clear and convincing evidence that the decision was not in accordance with the provisions of R.S. 23:1203.1.

L. Variance to Medical Treatment Schedule

1. Requests for authorization of medical care, services, and treatment that may vary from the medical treatment schedule must follow the same prior authorization process established for all other requests for medical care, services, and treatment that require prior authorization. If a request is denied or approved with modification, and the health care provider or claimant determines to seek a variance from the medical director, then a LWC-WC-1009 shall be filed as provided in Subsection J of this Section. The health care provider, claimant, or claimant's attorney filing the LWC-WC-1009 shall submit with such form the scientific medical literature that is higher ranking and more current than the scientific medical literature contained in the medical treatment schedule, and which supports approval of the variance.

2. A variance exists in the following situations.

a. The requested care, services, or treatment is not recommended by the medical treatment schedule although the diagnosis is covered by the medical treatment schedule.

b. The requested care, services, or treatment is recommended by the medical treatment schedule, but for a different diagnosis or body part.

c. The requested care, services, or treatment involves a medical condition of the claimant that complicates recovery of the claimant that is not addressed by the medical treatment schedule.

M. Emergency Care. In addition to all other rules and procedures, the health care provider who provides care under the "medical emergency" exception must demonstrate that it was a "medical emergency" in the following manner:

a. - b. …

N. Change of Physician

1. Requests for change of treating physician within one field or specialty shall be made in writing to the carrier/self-insured employer and shall contain a clear statement of the reason for the requested change. Having exhausted the monetary limit for non-emergency treatment is insufficient justification, without other reasons. The carrier/self-insured employer shall notify all parties of the request, and of their action on the request, within five calendar days of date of receipt of the request. Failure to timely respond may result in assessment of penalties by the hearing officer.

2. Disputes over change of physician will be resolved in accordance with R.S. 23:1142(B).

O. Opposing Medical Opinions. In the event that there are opposing medical opinions regarding claimant's condition or capacity to work, the Office of Workers' Compensation Administration will appoint an independent medical examiner of the appropriate licensure class to examine the claimant, or review the medical records at issue. The expense of this examination will be set by the director and will be borne by the carrier/self-insured employer.

AUTHORITY NOTE: Promulgated in accordance with RS 23:1291.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Workers' Compensation, LR 17:263 (March 1991), repromulgated LR 17:653 (July 1991), repromulgated LR 18:257 (March 1992), amended by the Louisiana Workforce Commission, Office of Workers' Compensation, LR 38:1030 (April 2012).

§2717. Medical Review Guidelines

A. - C.1.e. …

2. Quality of Care. Quality care should:

a. be provided in a timely manner, without inappropriate delay, interruption, premature termination or prolongation of treatment, and emphasize an early, safe return to work;

b. seek the patient's cooperation and participation in the decisions and process of his or her treatment;

c. be based on accepted principles of evidence based practice as established in R.S. 23:1203.1 and the skillful and appropriate use of other health professionals and technology;

d. be provided with sensitivity to the stress and anxiety that illness can cause, and with concern for the patient's and family's overall welfare and should focus on improvement in function related to the physical demands of the injured workers' job;

e. use technology and other resources efficiently to achieve the treatment goal;

f. be sufficiently documented in the patient's medical record to allow continuity of care and peer evaluation.

3. Medical Necessity

a. The workers' compensation law provides benefits only for services that are medically necessary for the diagnosis or treatment of a claimant's work related illness, injury, symptom or complaint. *Medically necessary* or *medical necessity* shall mean health care services that are:

i. clinically appropriate, in terms of type, frequency, extent, site, and duration, and effective for the patient's illness, injury, or disease; and

ii. in accordance with the medical treatment schedule and the provisions of R.S. 23:1203.1.

b. To be medically necessary, a service must be:

i. consistent with the diagnosis and treatment of a condition or complaint; and

ii. in accordance with the Louisiana medical treatment schedule; and

iii. - iv. …

c. Services not related to the diagnosis or treatment of a work related illness or injury are not payable under the workers' compensation laws and shall be the financial responsibility of the claimant, and in appropriate cases, his health insurance carrier.

4. - 9. …

D. Professional Justification

1. Medical Necessity. All claims submitted for payment to the carrier/self-insured employer must be reviewed for medical necessity and for compliance with the medical treatment schedule and the provisions of R.S. 23:1201.1. Medical necessity implies the use of technologies* services, or supplies provided by a hospital, physician, or other provider that is determined to be:

a. - b. …

c. in accordance with the medical treatment schedule and the provisions of R.S. 23:1203.1; and

1.d. - 2.* …

AUTHORITY NOTE: Promulgated in accordance with RS 23:1291.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Workers' Compensation, LR 17:263 (March 1991), repromulgated LR 17:653 (July 1991), amended by the Louisiana Workforce Commission, Office of Workers' Compensation, LR 38:1036 (April 2012).

§2718. Utilization Review Forms

A. LWC Form 1010—Request of Authorization/Carrier or Self Insured Employer Response

LWC FORM 1010 - REQUEST OF AUTHORIZATION/CARRIER OR SELF INSURED EMPLOYER RESPONSE

PLEASE PRINT OR TYPE

SECTION 1. IDENTIFYING INFORMATION - To Be Filled Out By Health Care Provider

Last Name: First: Middle: Street Address, City, State, Zip:

Social Security Number: Date of Birth: Phone Number: Date of Injury:

Employers Name: Street Address, City, State, Zip: Phone Number:

Name: Adjuster: Claim Number (if known):

Street Address, City, State Zip: Email Address: Phone Number: Fax Number:

SECTION 2. REQUEST FOR AUTHORIZATION - To Be Filled Out By Health Care Provider

Requesting Health Care Provider Phone Number: Fax Number:

Street Address, City, State Zip: Email:

Diagnosis: CPT/DRG Code: ICD-9/DMS-4 Code:

Requested Treatment or Testing (Attach Supplement If Needed):

Reason for Treatment or Testing (Attach Supplement If Needed):

INFORMATION REQUIRED BY RULE TO BE INCLUDED WITH REQUEST FOR AUTHORIZATION - To Be Filled Out By Health Care Provider

(Following is the required minimum information for Request of Authorization (LAC 40:2715 (C))

- ☐ History provided to the level of condition and as provided by Medical Treatment Schedule
- ☐ Physical Findings/Clinical Tests
- ☐ Documented functional improvements from prior treatment
- ☐ Test/imaging results
- ☐ Treatment Plan including services being requested along with the frequency and duration

I hereby certify that this completed form and above required information was ☐ Faxed ☐ Emailed to the Carrier/Self Insured Employer on this the ____ day of _____, _____ (day) (month) (year)

Signature of Health Care Provider: Printed Name:

SECTION 3. RESPONSE OF CARRIER/SELF INSURED EMPLOYER FOR AUTHORIZATION

(Check appropriate box below and return to requesting Health Care Provider, Claimant and Claimant Attorney as provided by rule)

☐ The requested Treatment or Testing is **approved**

☐ The requested Treatment or Testing is **approved with modifications** (Attach summary of reasons and explanation of any modifications)

☐ The requested Treatment or Testing is **denied** because

- ☐ Not in accordance with Medical Treatment Schedule or R.S.23:1203.1(D) (Attach summary of reasons)
- ☐ The request, or a portion thereof, is not related to the on-the-job injury
- ☐ The claim is being denied as non-compensable
- ☐ Other (Attach brief explanation)

I hereby certify that this response of Carrier/Self Insured Employer for Authorization was ☐ Faxed ☐ Emailed to the Health Care Provider (and to the Attorney of Claimant if one exists, if denied or approved with modification) on this the ____ day of _____, _____ (day) (month) (year)

Signature of Carrier/Self Insured Employer: Printed Name:

☐ The prior **denied** or **approved with modification** request is now **approved**

I hereby certify that this response of Carrier/Self Insured Employer for Authorization was ☐ Faxed ☐ Emailed to the Health Care Provider and Attorney of Claimant if one exists on this the ____ day of _____, _____ (day) (month) (year)

Signature of Carrier/Self Insured Employer: Printed Name:

SECTION 4. FIRST REQUEST

(Form 1010A is required to be filled out by Carrier/Self Insured Employer and Health Care Provider)

☐ The requested Treatment or Testing is delayed because minimum information required by rule was not provided

I hereby certify that this First Request and accompanying Form 1010A was ☐ Faxed ☐ Emailed to the Health Care Provider on this the ____ day of _____, _____ (day) (month) (year)

Signature of Carrier/Self Insured Employer:

I hereby certify that a response to the First Request and accompanying Form 1010A was ☐ Faxed ☐ Emailed to the Carrier/Self Insured Employer on this the ____ day of _____, _____ (day) (month) (year)

Signature of Health Care Provider: Printed Name:

SECTION 5. SUSPENSION OF PRIOR AUTHORIZATION DUE TO LACK OF INFORMATION

Suspension of Prior Authorization Process due to Lack of Information

☐ The requested Treatment or Testing is delayed due to a Suspension of Prior Authorization Due to Lack of Information

I hereby certify that this Suspension of Prior Authorization was ☐ Faxed ☐ Emailed to the Health Care Provider on this the ____ day of _____, _____ (day) (month) (year)

Signature of Carrier/Self Insured Employer: Printed Name:

Appeal of Suspension to Medical Services Section by Health Care Provider

I hereby certify that this form and all information previously submitted to Carrier/Self Insured Employer was faxed to OWCA Medical Services (Fax Number: 225-XXX- XXXX) this _____ day of _____, _____.

I hereby certify that this Appeal of Suspension of Prior Authorization was ☐ Faxed ☐ Emailed to the Carrier/Self Insured Employer on this the ____ day of _____, _____ (day) (month) (year)

Signature of Health Care Provider: Printed Name:

SECTION 6. DETERMINATION OF MEDICAL SERVICES SECTION

☐ The required information of LAC40:2715(C) was *not* provided

☐ The required information of LAC40:2715(C) was provided

I hereby certify that a written determination was ☐ Faxed ☐ Emailed to the Health Care Provider & Carrier/Self Insured Employer on this the ____ day of _____, _____ (day) (month) (year)

Signature: Printed Name:

SECTION 7. HEALTH CARE PROVIDER RESPONSE TO MEDICAL SERVICES DETERMINATION

I hereby certify that additional information, pursuant to the determination of Medical Services Section, was ☐ Faxed ☐ Emailed to the Carrier/Self Insured Employer on this the ____ day of _____, _____ (day) (month) (year)

Signature of Health Care Provider: Printed Name:

B. LWC Form 1010A—First Request

LWC FORM 1010A - FIRST REQUEST
PLEASE PRINT OR TYPE

	SECTION 1. IDENTIFYING INFORMATION			
PATIENT	Last Name:	First:	Middle:	Social Security Number:
	Employers Name:			Claim Number (if known):

SECTION 2. CARRIER/SELF INSURED EMPLOYER'S FIRST REQUEST FOR REQUIRED MINIMUM INFORMATION

CARRIER

I have received a request for authorization for the above referenced matter and have determined it lacks the required minimum information of 40:2715(C) - Please check all that apply

- ☐ History provided to the level of condition and as provided by Medical Treatment Schedule
- ☐ Physical Findings/Clinical Tests
- ☐ Documented functional improvements from prior treatment
- ☐ Test/imaging results
- ☐ Treatment Plan including services being requested along with the frequency and duration

COMMENTS
(Please provide a detailed explanation in support of your First Request)

SECTION 3. HEALTH CARE PROVIDER RESPONSE TO FIRST REQUEST

PROVIDER

- ☐ Additional information has been provided - Attach Supporting Documentation
- ☐ Additional information has not been provided - Provide explanation below

EXPLANATION

AUTHORITY NOTE: Promulgated in accordance with RS 23:1291.

HISTORICAL NOTE: Promulgated by the Louisiana Workforce Commission, Office of Workers' Compensation, LR 38:1037 (April 2012).

Curt Eysink
Executive Director

1204#077

Notices of Intent

NOTICE OF INTENT

Department of Agriculture and Forestry
Office of Agriculture and Environmental Sciences
Seed Commission

Seed Inspection Fees (LAC 7:XIII.115 and 143)

In accordance with the Administrative Procedures Act, R.S. 49:950 et seq., and with the enabling statute, R.S. 3:1433, the Department of Agriculture and Forestry intends to amend these rules and regulations ("the proposed action") to amend the current inspection fees on agricultural seed to include vegetable seed and to increase fees for certain seed certification inspections currently offered by the department.

The department currently provides seed certification inspection services to Louisiana certified seed growers. The requests for certified seed field inspections are voluntarily made by the grower and the service is provided over and above the regulatory function of the department in regard to seed. The cost of the field inspections have continued to increase to the point that the cost of the inspections exceeds the fees being charged. A survey of several other states determined that the department is charging significantly less than these other states for similar inspections. The proposed action adjusts certain existing seed certification fees to help recover the actual cost of the inspections.

The proposed action amends the current inspection fees on agricultural seed to include vegetable seed. Seed regulatory inspection fees are currently in place for all agricultural seed kinds to help defray the costs of regulating the seed industry in Louisiana. Vegetable seed sales into Louisiana continue to increase to the point that the department is no longer able to provide regulatory services without assistance to defray inspection, sampling and laboratory testing costs. A significant percentage of Louisiana consumers purchase vegetable seed and therefore will benefit from the proposed regulations. According to the LSU AgCenter Agricultural Survey, 298,207 acres of residential and commercial vegetables were grown in Louisiana in 2010. In order to protect the Louisiana consumer, the department is currently, on a limited basis, inspecting, sampling, and laboratory testing all vegetable seed kinds sold into Louisiana. However, to further protect the consumers, the department would like to fully enforce the labeling and quality requirements in place for all vegetable seed kinds. The proposed action will help recover the actual cost of regulating vegetable seed sold into Louisiana and allow the department to continue to regulate the vegetable seed industry within Louisiana.

Title 7
AGRICULTURE AND ANIMALS
Part XIII. Seeds

Chapter 1. Louisiana Seed Law

§115. Inspection Fees on Agricultural Seed

A. In addition to the requirements of the Act, any person who sells, distributes, or offers or handles for sale agricultural and vegetable seed within this state for planting purposes shall pay an inspection fee thereon in accordance with the following.

1. All seed dealers shall pay an inspection fee of $0.20 for each 100 pounds of agricultural and vegetable seed sold, offered for sale, exposed for sale, or otherwise distributed for sale for planting purposes within this state. The inspection fee shall be due on the total pounds of first point of sales distributions in Louisiana by the seller of the seed.

Exception: The payment of an inspection fee is not required for a person who offers for sale, sells, or distributes Louisiana certified tagged seed upon which inspection fees have already been paid.

2. - 3. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Seed Commission, LR 14:603 (September 1988), amended LR 29:2632 (December 2003), LR 38:

§143. Fees

A. - A.3. …

B. Application Fees

1. The application fee for certification for each producer shall be $28 for each variety with only one variety per application if the application is timely submitted.

2. …

C. Field inspection fees shall be charged as follows:

1. all crop, grass, and other seeds not listed in this Section—$1.15 per acre;

2. - 2.b. …

3. rice—$1.15 per acre;

4. small grains—$1.15 per acre;

5. sugarcane—$3 per acre;

6. sweet potato;

a. field inspection—$2.25 per acre;

b. greenhouse and seedbed inspections—$62.50 per crop year;

c. seed storage inspection:

i. a fee of $25 per hour, per inspector shall be charged for each seed sweet potato storage inspection; and

ii. mileage for travel to and from the inspection location shall be charged at the rate set by the Division of Administration for state employees pursuant to R.S. 39:231;

7. turf and pasture grass—$31.25 per acre.

D. ...

E. Fees for phytosanitary inspections—$1.15 per acre.

F. - H.1.d. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:566 (November 1982), amended LR 10:495 (July, 1984); amended by the Department of Agriculture and Forestry, Seed Commission, LR 12:825 (December 1986), LR 14:604 (September 1988), LR 16:847 (October 1990), LR 25:1617 (September 1999), LR 26:235 (February 2000), LR 29:2632 (December 2003), LR 31:420 (February 2005), LR 31:1511 (July 2005), LR 34:2339 (November 2008), LR 37:2979 (October 2011), LR 38:

Family Impact Statement

It is anticipated that the proposed action will have no significant effect on the (1) stability of the family, (2) authority and rights of parents regarding the education and supervision of their children, (3) functioning of the family, (4) family earnings and family budget, (5) behavior and personal responsibility of children, or (6) ability of the family or a local government to perform the function as contained in the proposed action.

Small Business Statement

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

Public Comments

Interested persons may submit written comments, data, opinions, and arguments regarding the proposed action. Written submissions are to be directed to Lester Cannon, Department of Agriculture and Forestry, 5825 Florida Boulevard, Baton Rouge, LA 70806 and must be received no later than 4 p.m. on May 10, 2012. No preamble regarding these proposed regulations is available.

Mike Strain, DVM
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Seed Inspection Fees

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will have no impact on state or local governmental expenditures. The proposed rule change seeks to increase individual agricultural seed certification field inspection fees and include "vegetable seed" in the inspection fees on agricultural seed.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change is anticipated to increase revenues collected by the department by approximately $3,400 a year as a result of the agricultural seed certification inspection fee increase. The inspection revenue is based on the average acres applied for certification for each individual type of seed for the past three years with the proposed inspections fees. Because seed dealers selling vegetable seed into Louisiana currently are not required to keep or report sales records, the amount of vegetable seed sold into Louisiana is indeterminable. According to the 2010 LSU AgCenter agricultural survey, there were 298,207 acres of commercial and residential vegetables grown in Louisiana and 2,475,958 acres of agricultural crop (corn, soybeans, small grains and rice) acres. Taking this information into consideration, it is anticipated that the impact on revenue collections will be minimal.

There will be no effect on revenue collections to local governmental units as a result of the proposed rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Sellers of vegetable seed will be required to submit to the department, twenty cents (20¢) for every one hundred (100) pounds of vegetable seed sold at the first point of sale into Louisiana. It is anticipated that a minimal increase in workload will result to seed dealers selling vegetable seed at the first point of sale into Louisiana. Each of the impacted seed dealers will be required to complete a single page Seed Inspection Fee Form, supplied by the department at the beginning of each quarter, and will also be required to keep records of vegetable seed sales into Louisiana. However, the majority of suppliers of vegetable seed into Louisiana are also suppliers of agricultural seed. Seed dealers that sell agricultural seed into Louisiana are currently required to complete the seed inspection fee form and keep the required records, therefore, the majority of vegetable seed suppliers will not be affected.

It is estimated that there will be a total annual cost of approximately $3,400 to the growers requesting certified seed field inspections. There is a three year average of 64 growers applying for field certification annually. Therefore, the average cost to the grower would be approximately $53 ($3,400/64 growers). The acres in which these growers apply for range from less than one acre to several thousand, depending on the type of crop. Therefore, each person applying for field certification will be impacted differently, depending on the number of acres for which they are applying. Based upon the average cost to the grower, it is estimated that the costs to the growers would be minimal.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no effect on competition or employment.

Dane Morgan	Evan Brasseaux
Assistant Commissioner	Staff Director
1204#090	Legislative Fiscal Office

NOTICE OF INTENT

Department of Children and Family Services
Division of Programs
Economic Stability and Self-Sufficiency

TANF Initiatives (LAC 67:III.5501)

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Children and Family Services, proposes to amend the Louisiana Administrative Code, Title 67, Part III, Subpart 15, Temporary Assistance to Needy Families (TANF).

This Rule is necessary to allow the agency the flexibility to make adjustments to the TANF Initiatives based upon the availability of funding from the TANF Block Grant. This action was made effective by an Emergency Rule dated and effective February 1, 2012.

Title 67
SOCIAL SERVICES
Part III. Economic Stability and Self-Sufficiency
Subpart 15. Temporary Assistance for Needy Families (TANF) Initiatives

Chapter 55. TANF Initiatives

§5501. Introduction to the TANF Initiatives

A. - C.4. ...

D. To the extent that appropriations are available, the secretary may establish and make available to eligible families the TANF Initiatives.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2537 (November 2010), amended by

the Department of Children and Family Services, Division of Programs, Economic Stability and Self-Sufficiency, LR 38:

Family Impact Statement

1. What effect will this Rule have on the stability of the family? This Rule will have no effect on the family's stability.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? This Rule will have no effect on the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? This Rule will have no effect on the functioning of the family.

4. What effect will this have on family earnings and family budget? This Rule will have no effect on family earnings. This Rule may reduce potential unearned income in the family budget.

5. What effect will this have on the behavior and personal responsibility of children? This Rule will have no effect on the behavior and personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed Rule? No, these functions are department functions.

Small Business Statement

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

Public Comments

All interested persons may submit written comments through, May 29, 2012, to Sammy Guillory, Deputy Assistant Secretary, Division of Programs, Post Office Box 94065, Baton Rouge, LA 70804-9065.

Public Hearing

A public hearing on the proposed Rule will be held on May 29, 2012, at the Department of Children and Family Services, Iberville Building, 627 North Fourth Street, Seminar Room 1-127, Baton Rouge, LA, beginning at 11 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the DCFS Appeals Unit at least seven working days in advance of the hearing. For assistance, call area code (225) 342-4120 (voice and TDD).

Ruth Johnson
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: TANF Initiatives

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This rule proposes to continue the provisions of the February 1, 2012 emergency rule that amended Louisiana Administrative Code (LAC), Title 67, Part III, Subpart 15, and Chapter 55 TANF Initiatives. The proposed amended stipulates that the secretary of the Department of Children and Family Services (DCFS) has flexibility to make adjustment to the Temporary Assistance for Needy Families (TANF) Initiatives based upon the availability of funding from the federal TANF block grant award. The department will decrease and/or redistribute funds among TANF Initiatives if TANF block funds are decreased.

The only cost associated with this proposed rule is the cost of publishing rulemaking. It is anticipated that $820 in Federal funds will be expended in SFY 11-12 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)

Implementation of this 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)

Implementation of this proposed rule will have no impact on directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule will not have an impact on competition and employment for low-income families.

Sammy Guillory	H. Gordon Monk
Deputy Assistant Secretary	Legislative Fiscal Officer
1204#079	Legislative Fiscal Office

NOTICE OF INTENT

Department of Children and Family Services
Division of Programs
Licensing Section

Juvenile Detention Facilities
(LAC 67:V.Chapter 75)

The Department of Children and Family Services (DCFS), Division of Programs, Licensing Section in accordance with provisions of the Administrative Procedure Act, R.S. 49:953(A) proposes to adopt LAC 67:V, Chapter 75 to include standards for juvenile detention facilities.

Subpart 8, Residential Licensing is being amended to add Chapter 75 in accordance with R.S. 15:1110 which requires DCFS to license juvenile detention facilities. This law requires the creation of licensing standards for juvenile detention facilities and for such standards to be promulgated and in place by January 2012. All juvenile detention facilities are mandated to be licensed by January 1, 2013.

This notice was made active by an Emergency Rule effective January 31, 2012.

Title 67
SOCIAL SERVICES
Part V. Child Welfare
Subpart 8. Residential Licensing
Chapter 75. Juvenile Detention Facilities
§7501. Purpose

A. It is the intent of the legislature to protect the health, safety, and well-being of the youth of this state who are placed in a Juvenile Detention Facility (JDF). Toward this end, it is the purpose of R.S. 15:1110 to provide for the establishment of statewide standards for juvenile detention

facilities, to ensure maintenance of these standards, and to regulate conditions in these facilities through a licensing program. It shall be the policy of this state that all juvenile detention facilities provide temporary, safe, and secure custody of youth during the pendency of youth proceedings, when detention is the least restrictive alternative available to secure the appearance of the youth in court or to protect the safety of the child or the public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:

§7503. Authority

A. Legislative Provisions

1. R.S. 15:1110 is the legal authority under which the department prescribes minimum standards for the health, safety and well-being of youth placed in Juvenile Detention Facilities (JDF).

B. Penalties

1. Whoever operates a child care JDF without a valid license may be fined in accordance with the law.

C. Waiver Request

1. In specific instances, the secretary of DCFS may waive compliance with a minimum standard if it is determined that the economic impact is sufficiently great to make compliance impractical, as long as the health and well-being of the staff and/or youth are not imperiled.

a. Standards shall be waived only when the secretary determines, upon clear and convincing evidence, that the demonstrated economic impact is sufficient to make compliance impractical for the provider despite diligent efforts, and when alternative means have been adopted to ensure that the intent of the regulation has been met ensuring the health, safety, and well being of the youth served.

b. An application for a waiver shall be submitted by a provider using the request for waiver from licensing standards form. The form shall be submitted to the DCFS Licensing Section. A request for a waiver shall provide the following information: a statement of the provisions for which the waiver is being requested, an explanation of the reasons why the provisions cannot be met, including information demonstrating that the economic impact is sufficiently great to make compliance impractical, and a description of alternative methods proposed for meeting the intent of the regulation sought to be waived.

c. All requests for a waiver will be responded to in writing by the DCFS secretary or designee. A copy of the waiver decision shall be kept on file at the facility and presented to licensing staff during all licensing inspections.

d. A waiver is issued at the discretion of the secretary and continues in effect at his/her pleasure. The waiver may be revoked by the secretary at any time, either upon violation of any condition attached to it at issuance, or upon failure of any of the statutory prerequisites to issuance of a waiver (i.e., the cost of compliance is no longer so great as to be impractical or the health or safety of any staff or any child in care is imperiled), or upon his/her determination that continuance of the waiver is no longer in the best interest of DCFS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:

§7505. Definitions

Abuse—any one of the following acts which seriously endangers the physical, mental, or emotional health of the youth:

1. the infliction, attempted infliction, or, as a result of inadequate supervision, the allowance of the infliction or attempted infliction of physical or mental injury upon the youth by a parent or any other person;

2. the exploitation or overwork of a youth by a parent or any other person; and

3. the involvement of the youth in any sexual act with a parent or any other person, or the aiding or toleration by the parent or the caretaker of the youth's sexual involvement with any other person or of the youth's involvement in pornographic displays or any other involvement of a youth in sexual activity constituting a crime under the laws of this state.

Administrative Segregation—restriction of a youth to a designated sleeping room or dorm for reasons other than current acting-out behavior, discipline, medical reasons, or threats to the youth.

Administrator—the person with authority and responsibility for the on-site, daily implementation and supervision of the facility's overall operation.

Affiliate—

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

2. with respect to a corporation, limited liability company, or other corporate entity, each officer, director and stockholder thereof; and

3. with respect to a natural person: anyone related within the third degree of kinship to that person; each partnership and each partner thereof of which that person or any affiliate of that person is a partner; and each corporation in which that person or any affiliate of that person is an officer, director or stockholder.

Alternate Power Source—an alternate source of electrical power that provides for the simultaneous operations of life safety systems during times of emergency.

Average Daily Population—a calculation determined by counting the number of youth in detention each day of the month, adding the daily counts (at 0600 hours), and dividing the sum by the number of days in the month.

Average Length of Stay (ALOS)—average length of stay is calculated on those youth who end a placement during the reporting period. ALOS is the sum of all the days of all the stays for those released during the period divided by the number of "releases." Stays should be calculated by counting admission date but not date of release.

Body Cavity Search—a visual inspection of a body cavity, defined as a rectal cavity, or vagina, for the purpose of discovering whether contraband is concealed in it.

Complaint—an allegation that any person or facility is violating any provisions of these standards or engaging in conduct, either by omission or commission, that negatively affects the health, safety, rights, or welfare of any youth who is residing in a juvenile detention facility.

Contraband—any object prohibited within a juvenile detention facility, which may include but is not limited to:

currency, stolen property, articles of food or clothing, intoxicating beverages, narcotics, firearms or dangerous weapons, telecommunications devices, tattooing equipment, electronic devices, or any other object or instrumentality intended for use as a tool in the planning or aiding in an escape or attempted escape by a youth in a local juvenile detention facility in the state.

Delinquent Act—an act committed by a child of 10 years of age or older, which if committed by an adult is designated an offense under the statutes or ordinances of this state, or of another state if the offense occurred there or under federal law, except traffic violations.

Department (DCFS)—the Louisiana Department of Children and Family Services.

Direct Care Staff—a person counted in the staff/youth ratio, whose duties include the direct care, supervision, guidance, and protection of youth. This may include staff such as administrative staff that has the required background clearances and appropriate training that may serve temporarily as a detention officer.

Electronic Security Wand Scanner—an electronic hand-held security scanner used to detect metal weapons in a detention facility.

Frisk—to search a youth for something concealed, including a weapon or illegal contraband, by passing the hands quickly over clothes or through pockets.

Governing Body—a parent agency exercising administrative control over a facility.

Grievance Procedure—a method for the expression and resolution of youth's grievances or complaints.

Inspection—a thorough investigatory review of information, including written records and interviews with staff and youth, to determine whether and the extent to which a facility's policies, practices, and protocols comply with the standards.

Juvenile Detention Facility (JDF)—means a facility that provides temporary safe and secure custody of youth during the pendency of juvenile proceedings, when detention is the least restrictive alternative available to secure the appearance of the youth in court or to protect the safety of the child or the public, as described in R.S. 15:1110.

Mechanical Restraints—an approved professionally manufactured mechanical device to aid in the restriction of a person's bodily movement. The following are approved mechanical restraint devices:

1. *Ankle Cuffs*—metal, cloth or leather band designed to be fastened around the ankle to restrain free movement of the legs;
2. *Anklets*—cloth or leather band designed to be fastened around the ankle or leg;
3. *Handcuffs*—metal devices designed to be fastened around the wrist to restrain free movement of the hands and arms;
4. *Waist Band*—a cloth, leather, or metal band designed to be fastened around the waist used to secure the arms to the sides or front of the body;
5. *Wristlets*—a cloth or leather band designed to be fastened around the wrist or arm which may be secured to a waist belt;
6. *Plastic Cuffs*—plastic devices designed to be fastened around the wrist or legs to restrain free movement of hands, arms or legs.

Medical Isolation—the restriction of a youth to a sleeping room specifically for medical reasons that may pose a threat to himself/herself, or others at the facility.

Neglect—the refusal or unreasonable failure of a parent or caretaker to supply the child with necessary food, clothing, shelter, care, treatment, or counseling for any injury, illness, or condition of the child, as a result of which the child's physical, mental, or emotional health and safety is substantially threatened or impaired.

Pat-down Search—a running of the hands over the clothed body of a youth by a staff member to determine whether the youth possesses contraband.

Physical Escort Techniques—the touching or holding a youth with a minimum use of force for the purpose of directing the youth's movement from one place to another. A physical escort is not considered a physical restraint.

Physical Restraint—a professionally trained restraint technique that uses a person's physical exertion to completely or partially constrain another person's body movement without the use of mechanical restraints.

Protective Isolation—is the restriction of a youth to a designated sleeping room or dorm due to his/her safety being threatened.

Qualified Medical Professional—health professional who, by virtue of education, credentials, and experience, is permitted by law to evaluate and care for youth within the scope of his or her professional practice.

Qualified Mental Health Professional—a mental health professional who, by virtue of education, credentials, and experience, is permitted by law to evaluate and care for youth within the scope of his or her professional practice.

Relatives—spouses, children of spouses, brothers, sisters, parents, brother-in-law, sister-in-law, aunts, uncles, nieces, nephews, grandparents, and first cousins.

Room Confinement—the restriction of a youth to his/her assigned sleeping room, due to disciplinary reasons.

Room Isolation—the restriction of a youth to a room that is separated from the general population, due to current acting out behavior.

Shall—must or mandatory.

Special Needs—the individual requirements (as for education) of a person with a mental, emotional, developmental, or physical disability or a high risk of developing one.

Status Offense—an allegation that a youth is truant or has willfully and repeatedly violated lawful school rules, ungovernable, a runaway, committed an offense applicable only to youth, or a youth under age 10 years of age who has committed any act which if committed by an adult would be a crime under any federal, state, or local law.

Strip Search—a search that requires a person to remove some or all of his or her clothing so as to permit a visual inspection of the underclothing, breasts, buttocks, or genitalia of such person.

Substantial Bodily Harm—physical injury serious enough that a prudent person would conclude that the injury required professional medical attention. It does not include minor bruising, the risk of minor bruising, or similar forms of minor bodily harm that will resolve healthily without professional medical attention.

Support Staff—a person who works directly for the facility or a person who provides direct services to youth in a facility on a recurring basis with no discipline authority over youth.

Unencumbered Space—usable space that is not occupied by furnishing or fixtures.

Validated Mental Health Screening Tool—an instrument that has been scientifically tested to determine that it accurately measures what it purports to measure.

Volunteer—an individual who works at the facility and whose work is uncompensated. This may include students, interns, tutors, counselors, persons providing recreational activities including religious service, and other non-staff individuals who may or may not interact with youth in a supervised or unsupervised capacity.

Waiver—an exemption granted by the secretary of the department, or designee, from compliance with a standard that will not place the youth or staff member at risk.

Youth—an individual placed in a JDF in accordance with limitations and exceptions noted in state law who is not less than 10 years of age nor older than 21 years of age.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:

§7507. Licensing Requirements

A. General Provisions

1. All providers in operation prior to January 1, 2013 may continue to operate without a license if timely application for a license has been made to DCFS. Providers shall make application to the department within 90 days of the effective date of this rule. All requirements herein shall be met, unless otherwise expressly stated in writing by the department prior to the issuance of a license.

2. Effective January 1, 2013, it is mandatory to obtain a license from the department prior to beginning operation.

3. Anyone applying for a license after the effective date of these standards shall meet all of the requirements herein, unless otherwise stated in these regulations or other official written policy of the department.

4. Two licenses shall not be issued simultaneously for the same physical address. If a second license is issued for a physical address which is already licensed, the second license shall be null and void.

5. The provider shall allow representatives of DCFS access to the facility, the youth, and all files and records at any time during hours of operation and/or anytime youth are present. DCFS staff shall be allowed to interview any staff member or youth. DCFS staff shall be admitted immediately and without delay, and shall be given access to all areas of a facility, including its grounds. If any portion of a facility is set aside for private use by the facility's owner, DCFS representatives shall be permitted to verify that no youth is present in that portion and that the private areas are inaccessible to youth.

6. All new construction to a currently licensed facility or renovation requires approval from the Office of State Fire Marshal, Office of Public Health, City Fire (if applicable), and the Licensing Section prior to occupying the new space.

7. Neither providers nor staff shall permit an individual convicted of a sex offense as defined in R.S. 15:541, other than youthful offenders convicted of such offense and committed to the custody of that specific facility, to have physical access to a JDF.

8. Providers shall comply with the requirements of the Americans with Disabilities Act, 42 U.S.C.§12101 et seq. (ADA).

9. If the facility is located in the same building or on the grounds of any type of adult jail, lockup, or corrections facility, it shall be a separate, self-contained unit. All applicable federal and state laws pertaining to the separation of youth from adult inmates will apply.

10. The population using housing or living units shall not exceed the designated or rated capacity of the facility.

11. All providers shall adhere to all polices with regard to practice and procedures.

12. DCFS is authorized to determine the period during which the license shall be effective. A license shall be valid until the expiration date shown on the license, unless the license is modified, extended, revoked, suspended, or terminated.

13. Once a license has been issued, DCFS shall conduct licensing inspections at intervals (not to exceed one year) deemed necessary by DCFS to determine compliance with licensing standards, as well as other required statutes, laws, ordinances, rules, and regulations. These inspections shall be unannounced.

14. Whenever DCFS is advised or has reason to believe that any person, agency, or organization that holds a license or has applied for a license is operating in violation of the JDF regulations or laws, DCFS shall conduct an investigation to ascertain the facts.

B. Initial Licensing Application Process

1. An initial application for licensing as a JDF shall be obtained from DCFS. A completed initial license application packet along with a fee as required by law shall be submitted to and approved by DCFS prior to an applicant providing JDF services. The completed initial licensing packet shall include:

a. application and fee as established by law;

b. current Office of State Fire Marshal approval for occupancy;

c. current Office of Public Health, Sanitarian Services approval;

d. current city fire department approval, if applicable;

e. city or parish building permits office approval, if applicable;

f. current local zoning approval, if applicable;

g. current department of education approval, if applicable;

h. copy of proof of current general liability and property insurance for JDF;

i. copy of proof of insurance for vehicle(s) used to transport youth;

j. organizational chart or equivalent list of staff titles and supervisory chain of command;

k. administrator resume and proof of educational requirements;

l. list of consultant/contract staff to include name, contact information, and responsibilities;

m. copy of table of contents of all policy and procedure manuals;

n. copy of evacuation plan;

o. copy of facility rules and regulations;

p. copy of grievance process; and

q. a floor sketch or drawing of the premises to be licensed.

2. If the initial licensing packet is incomplete, the applicant will be notified in writing of the missing information and will have 14 calendar days to submit the additional requested information. If the department does not receive the additional requested information within the 14 calendar days, the application will be closed. After an initial licensing application is closed, an applicant who is still interested in becoming a JDF shall submit a new initial licensing packet with a new application fee to start the initial licensing process. Once the department has determined the application is complete, the applicant will be notified to contact the department to schedule an initial inspection. If an applicant fails to contact the department and coordinate the initial inspection within 45 calendar days of the notification, the initial licensing application shall be closed. After an initial licensing application is closed, an applicant who is still interested in becoming a JDF shall submit a new initial licensing packet with a new application fee to re-start the initial licensing process.

C. Initial Licensing Inspection

1. In accordance with R.S. 15:1110(E), prior to the initial license being issued to the JDF, an initial licensing inspection shall be conducted on-site at the JDF to assure compliance with all licensing standards. No youth shall be provided services by the JDF until the initial licensing inspection has been performed and DCFS has issued a license. The licensing inspection shall not be completed if the provider is found in operation prior to the issuance of a license and the application shall be denied.

2. In the event the initial licensing inspection finds the JDF is compliant with all licensing laws and standards, and is compliant with all other required statutes, laws, ordinances, rules, regulations, and fees, DCFS may issue a license to the JDF. The license shall be valid until the expiration date shown on the license, unless the license is modified, extended, revoked, suspended, or terminated.

3. The license shall be displayed in a prominent place at the JDF.

D. Fees

1. An annual fee as established by law shall be payable to DCFS 30 days prior to the date of expiration of the current license by certified check, business check, or money order. Non-payment of fee by due date may result in revocation or non renewal of the license.

2. Other license fees include:

a. a replacement fee as established by law shall be submitted to the department for replacing a license when changes are requested, i.e., name change, age range, etc. No replacement charge shall be incurred when the request coincides with the regular renewal of a license;

b. a processing fee as established by law shall be submitted to the department for issuing a duplicate license with no changes.

E. Renewal of License

1. The license shall be renewed on an annual basis prior to its expiration date.

2. The JDF shall submit, at least 30 days prior to its license expiration date, a completed renewal application form, and fee as established by law. The following documentation shall also be included:

a. Office of Fire Marshal approval;

b. Office of Public Health, Sanitarian Services approval;

c. city fire department approval, if applicable;

d. copy of proof of current general liability and property insurance for JDF; and

e. copy of proof of insurance for vehicle(s) used to transport youth.

3. Prior to renewing the JDF license, an on-site inspection shall be conducted to assure compliance with all licensing laws and standards. If the JDF is found to be in compliance with the licensing laws and standards, and any other required statutes, laws, ordinances, or regulations, the license shall be renewed for a 12-month period.

4. In the event the annual licensing inspection finds the JDF is non-compliant with any licensing laws or standards, or any other required statutes, ordinances or regulations but the department, in its sole discretion, determines that the noncompliance does not present a threat to the health, safety, or welfare of the youth, the JDF shall be required to submit a corrective action plan to the department for approval. The department shall specify the timeline for submitting the corrective action plan based on such non-compliance or deficiencies cited but no later than 14 calendar days from the date of notification. The corrective action plan shall include a description of how the deficiency shall be corrected and the date by which correction(s) shall be completed. Failure to submit an approved corrective action plan timely shall be grounds for non-renewal of the license.

5. If it is determined that such noncompliance or deficiencies have not been corrected prior to the expiration of the license, the department may issue an extension of the license not to exceed two months.

6. When it is determined by the department that such noncompliance or deficiencies have been corrected, a license will be issued for a period not to exceed 12 months.

7. If it is determined that all areas of noncompliance or deficiencies have not been corrected prior to the expiration date of the extension, DCFS may revoke the license.

F. Notification of Changes

1. A license is not transferable to another person, entity, or location.

2. When a JDF changes location, it is considered a new operation and a new application and fee as required by law for licensure shall be submitted 30 days prior to the anticipated move. An onsite inspection verifying compliance with all standards is required prior to youth occupying the new space.

3. When a JDF is initiating a change in ownership, a written notice shall be submitted to DCFS prior to the ownership change. Within seven calendar days of the change of ownership, the new owner shall submit a completed application, the applicable licensing fee, and a copy of bill of sale or a lease agreement. A change of ownership occurs when the license and/or facility is transferred from one natural or juridical person to another, or when an officer, director, member, or shareholder not listed on the initial application exercises or asserts authority or control on behalf

of the entity. The addition or removal of members of a board of directors shall not be considered a change of ownership where such addition or removal does not substantially affect the entity's operation and shall require only notice be given to the DCFS of such addition or removal.

4. The JDF shall provide written notification to the department within 30 calendar days of changes in the administrator. A statement with supporting documentation of qualifications for the new administrator shall be submitted to DCFS.

G. Denial, Revocation, or Non-renewal of License

1. An application for a license may be denied, a license may be revoked, or a license renewal may be denied for any of the following reasons:

a. cruelty or indifference to the welfare of the youth in care;

b. violation of any provision of the standards, rules, regulations, or orders of the department;

c. disapproval from any agency whose approval is required for licensing;

d. any validated instance of abuse, neglect, corporal punishment, physical punishment, or cruel, severe, or unusual punishment, if the JDF administrator is responsible or if the staff member who is responsible remains in the employment of the licensee;

e. the JDF is closed with no plans for reopening and no means of verifying compliance with minimum standards for licensure;

f. falsifying or altering documents required for licensure;

g. the owner, administrator, officer, board of directors member, or any person designated to manage or supervise the JDF or any staff providing care, supervision, or treatment to a youth of the JDF has been convicted of or pled guilty or nolo contendere to any offense listed in R.S. 15:587.1. A copy of a criminal record check performed by the Louisiana State Police (LSP) or other law enforcement entity, or by the Federal Bureau of Investigation (FBI), or a copy of court records in which a conviction or plea occurred, indicating the existence of such a plea or conviction shall create a rebuttable presumption that such a conviction or plea exists;

h. the JDF, after being notified that an officer, administrator, board of directors member, manager, supervisor or any staff has been convicted of or pled nolo contendere to any offense referenced above, allows such officer, director, or staff to remain employed, or to fill an office of profit or trust with the JDF. A copy of a criminal record check performed by the LSP or other law enforcement entity , or by the FBI, or a copy of court records in which a conviction or plea occurred, indicating the existence of such a plea or conviction shall create a rebuttable presumption that such a conviction or plea exists;

i. failure of the owner, administrator or any staff to report a known or suspected incident of abuse or neglect to child protection authorities;

j. revocation or non-renewal of a previous license issued by the state of Louisiana;

k. a history of non-compliance with licensing statutes or standards, including but not limited to failure to take prompt action to correct deficiencies, repeated citations for the same deficiencies, or revocation or denial of any previous license issued by DCFS;

l. failure to timely submit an application for renewal or to timely pay fees as required by law; and/or

m. operating any unlicensed JDF and/or program.

H. Disqualification of Facility and/or Provider

1. If a facility's license is revoked or not renewed due to failure to comply with state statutes or licensing rules or surrendered to avoid adverse action, DCFS may elect not accept a subsequent application from the provider for that facility, or any new facility, up to but not exceeding a period of 24 months after the effective date of revocation, non-renewal due to adverse action, or surrender to avoid adverse action, or for a period up to but not exceeding 24 months after all appeal rights have been exhausted, whichever is later (the disqualification period). The effective date of a revocation, denial, or non-renewal of a license shall be the last day for applying to appeal the action, if the action is not appealed. Any pending application by the same provider shall be treated as an application for a new facility for purposes of this section and may be denied and subject to the disqualification period. Any subsequent application for a license shall be reviewed by the secretary or designee prior to a decision being made to grant a license. DCFS reserves the right to determine, at its sole discretion, whether to issue any subsequent license.

2. If a provider has multiple licensed facilities and one of the facility's licenses is revoked or not renewed, a capacity increase shall not be granted at any of the existing licensed facilities for a minimum period of 24 months after the effective date of revocation or non-renewal, or for a minimum period of 24 months after all appeal rights have been exhausted, whichever is later.

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

4. If the applicant has had a history of non-compliance, including but not limited to revocation of a previous license, operation without a license, or denial of one or more previous applications for licensure, DCFS may refuse to accept a subsequent application from that applicant for a minimum period of 24 months after the effective date of denial.

5. With respect to an application in connection with the revoked, denied, or not renewed facility, the disqualification period provided in this Section shall include any affiliate of the provider.

6. If a facility's license was revoked due solely to the disapproval from any agency whose approval is required for licensure or due solely to the facility being closed and there are no plans for immediate re-opening within 30 calendar days and no means of verifying compliance with minimum standards for licensure, the disqualification rule (or period) may not apply. DCFS may accept a subsequent application for a license that shall be reviewed by the secretary or designee prior to a decision being made to grant a license. DCFS reserves the right to determine, at its sole discretion, whether to issue any subsequent license.

7. In the event a license is revoked or renewal is denied, (other than for cessation of business or non-operational status), or voluntarily surrendered to avoid adverse action any owner, officer, member, manager, or administrator of such licensee may be prohibited from owning, managing, or operating another licensed facility for a period of not less than 24 months from the date of the final disposition of the revocation or denial action. The lapse of 24 months shall not automatically restore a person disqualified under this provision eligibility for employment. DCFS, at its sole discretion, may determine that a longer period of disqualification is warranted under the facts of a particular case.

I. Appeal Process

1. The DCFS Licensing Section, shall advise the administrator or owner in writing of the reasons for non-renewal or revocation of the license, or denial of an application, and the right of appeal. If the administrator or owner is not present at the facility, delivery of the written reasons for such action may be made to any staff of the facility. Notice to a staff shall constitute notice to the facility of such action and the reasons therefore. A request for appeal shall include a copy of the letter from the Licensing Section that notes the reasons for revocation, denial, or non-renewal, together with the specific areas of the decision the appellant believes to be erroneous and/or the specific reasons the decision is believed to have been reached in error, and shall be mailed to: Department of Children and Family Services, Appeals Section, P.O. Box 2944, Baton Rouge, LA 70821-9118.

2. A provider may appeal the revocation or non-renewal of a license by submitting a written request to appeal the decision along with a copy of the letter within 15 calendar days of receipt of the letter notifying of the revocation or non-renewal. Provider may continue to operate legally throughout the appeals process. Provider shall be issued a license noting that the provider is in the appeal process.

3. If provider's license expires during the appeal process, the provider shall submit a licensing renewal application and a copy of the satisfactory criminal background clearance for every owner. Each provider is solely responsible for obtaining the licensing application form. The licensing application and full licensure fee as well as copies of the criminal background clearances for all owners shall be received on or postmarked by the last day of the month in which the license expires, or the provider shall cease operation at the close of business by the expiration date noted on the license.

4. A provider may appeal the denial of an application for a license by submitting a written request to appeal the decision along with a copy of the letter within 30 calendar days of receipt of the letter notifying of the denial of application.

5. The DCFS Appeals Section shall notify the Division of Administrative Law of receipt of an appeal request. Division of Administrative Law shall conduct a hearing. The appellant will be notified by letter of the decision, either affirming or reversing the original decision.

6. If the decision of DCFS is affirmed or the appeal dismissed, the provider shall terminate operation of the JDF immediately. If the provider continues to operate without a license, the DCFS may file suit in the district court in the parish in which the facility is located for injunctive relief.

7. If the decision of DCFS is reversed, the license will be re-instated and the appellant may continue to operate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:

§7509. Administration

A. Governing Body

1. The provider shall have an identifiable governing body with responsibility and authority over the policies, procedures, and activities of the facility.

2. The provider shall have documents identifying:

a. all members of the governing body;

b. business address;

c. the term of their membership, if applicable;

d. officers of the governing body, if applicable;

e. the terms of office of all officers, if applicable; and

f. officer responsibilities.

3. When the governing body is composed of more than one person, there shall be recorded minutes of all formal meetings and bylaws specifying frequency of meetings and quorum requirements.

B. Accessibility of Administrator

1. There shall be a single administrator, or designee, on site with authority and responsibility for the daily implementation and supervision of the facility's overall operation.

2. The administrator, or designee, shall be accessible to DCFS 24 hours per day, seven days per week.

C. Statement of Philosophy and Goals

1. The provider shall have a written statement describing its philosophy and goals.

D. Policies and Procedures

1. The provider shall have written policies and procedures approved by the administrator and/or governing body that address, at a minimum, the following:

a. detecting and reporting suspected abuse and neglect;

b. intake, to include classification procedures and release;

c. behavior support and intervention program;

d. youth grievance process;

e. retention of youth files;

f. emergency and safety procedures including medical emergencies;

g. staff intervention/restraints;

h. room isolation;

i. room confinement/due process;

j. incidents;

k. health care (dental, mental, and medical);

l. youth rights;

m. infection control to include blood borne pathogens;

n. confidentiality;

o. training;

p. environmental issues;

q. physical plant;

r. access issues;

s. safety;

t. security;

u. suicide prevention and emergency procedures in case of suicide attempt; and

v. sexual misconduct including but not limited to the following:

i. right to be free from sexual misconduct and from retaliation for reporting sexual misconduct;

ii. dynamics of sexual misconduct in confinement;

iii. common reactions of sexual misconduct victims; and

iv. policy for prevention and response to sexual misconduct.

2. The policies and procedures for operating and maintaining the facility shall be specified in a manual that is accessible to all staff and the public. The policies and procedures listed in Section 7509.D.1 above shall be reviewed at least annually, updated as needed, signed, and dated by the administrator or a representative of the governing body.

3. New or revised policies and procedures shall be disseminated to designated staff, volunteers, and to the youth, as applicable.

E. Facility Rules and Regulations

1. The rules and regulations shall be written in simple, clear, and concise language that most youth can understand and be specific to ensure that the youth know what is expected of them.

2. A staff member shall read the rules and regulations or provide a video presentation of these rules to each youth at the time of admission or within 24 hours after admission, and provide the youth a written copy.

3. Reasonable accommodations shall be made for those youth with limited English proficiency or disabilities.

4. A copy of the rules and regulations shall be posted in each of the common areas and in the living units.

5. Enforcement

a. Rule violations and corresponding staff actions shall be recorded in the youth's file.

b. Disciplinary sanctions shall be objectively administered and proportionate to the gravity of the rule and the severity of the violation.

c. If a youth is alleged to have committed a crime while in the facility, at the discretion of the administrator, the case may be referred to a law enforcement agency for possible investigation and/or prosecution.

d. If a case is referred to a law enforcement agency for possible investigation and/or prosecution, efforts shall be made as soon as possible to notify or attempt to notify the parent/guardian, and the attorney of record of the incident and referral.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:

§7511. Facility Responsibilities

A. Personnel

1. Policies and Procedures

a. The provider shall have written policies and procedures that establish the provider's staffing, recruiting, and review procedures for staff. The personnel policy manual shall be available for staff and shall include a minimum of the following areas:

i. organization chart (table of organization);

ii. recruitment to include equal employment opportunity provisions;

iii. job;

descriptions and qualifications, and if applicable, a physical fitness policy;

iv. personnel files and performance reviews;

v. staff development, including in-service training;

vi. termination;

vii. employee/management relations, including disciplinary procedures and grievance and appeals procedures; and

viii. employee code of ethics.

b. A written policy and procedure shall require that each staff sign a statement acknowledging access to the policy manual.

2. Job Qualifications

a. The administrator shall meet one of the following qualifications upon hire:

i. a bachelor's degree plus two years experience relative to the population being served; or

ii. a master's degree; or

iii. six years of administrative experience in health or social services, or a combination of undergraduate education and experience for a total of six years.

b. Direct care staff shall be at least 18 years of age and have a high school diploma or equivalency at the time of hire.

3. Volunteers

a. If the provider utilizes volunteers, a written policy and procedure shall establish responsibility for the screening and operating procedures of the volunteer program.

b. Program Coordination

i. There shall be a staff member who is responsible for operating a volunteer service program for the benefit of youth.

ii. The provider shall specify the lines of authority, responsibility, and accountability for the volunteer service program.

c. Screening and Selection

i. Relatives of a youth shall not serve as a volunteer with the youth to whom they are related or in the facility where that youth is detained.

d. Professional Services

i. Volunteers shall perform professional services only when they are certified or licensed to do so.

B. Criminal Background Clearance

1. No staff of the facility shall be hired until such person has submitted his/her fingerprints to the Louisiana Bureau of Criminal Identification and Information so that it may be determined whether or not such person has a criminal conviction of a felony, or a plea of guilty, or nolo contendere of a felony, or a criminal conviction, or a plea of guilty or nolo contendere to any offense included in R.S. 15:587.1, or any offense involving a juvenile victim. If it is determined that such a person has a conviction or has entered a plea of guilty or nolo contendere to a crime listed in R.S. 15:587.1(C) or any offense involving a juvenile

victim, that person shall not be hired. No staff shall be present on the JDF premises until such a clearance is received.

2. The provider shall contact all prior institutional employers for information on substantiated allegations of sexual abuse consistent with federal, state, and local laws.

3. A criminal record check shall be conducted on all volunteers that interact with the youth. No volunteer of the facility shall be allowed to work with youth until such person has submitted his/her fingerprints to the Louisiana Bureau of Criminal Identification and Information so that it may be determined whether or not such person has a criminal conviction, or a plea of guilty or nolo contendere to any offense included in R.S. 15:587.1, or any offense involving a juvenile victim. If it is determined that such a person has a conviction or has entered a plea of guilty or nolo contendere to a crime listed in R.S. 15:587.1(C) or any offense involving a juvenile victim, that person shall not be allowed to volunteer with youth at the JDF. No volunteer shall be present on the JDF premises until such a clearance is received.

C. Health Screening

1. All staff shall receive a physical examination prior to employment, including screening for infectious and contagious diseases prior to job assignment, in accordance with state and federal laws.

D. Performance Reviews

1. The provider shall conduct an annual written performance review of each staff and the results shall be discussed with the staff.

E. Drug-free Workplace

1. The provider shall have a written policy and procedure regarding a drug-free workplace for all staff.

F. Training and Staff Development

1. Policy and Procedure

a. The provider shall have written policies and procedures that require training and staff development programs, including training requirements for all categories of personnel.

b. Program Coordination and Supervision. The program coordinator shall ensure that the provider's staff development and training program is planned, coordinated and supervised.

2. Orientation

a. All new staff shall receive a minimum of 40 hours of orientation training before assuming any job duties. This training shall include, at a minimum, the following:

i. philosophy, organization, program, practices and goals of the facility;

ii. specific responsibilities of assigned job duties;

iii. administrative procedures;

iv. emergency and safety procedures including medical emergencies;

v. youth's rights;

vi. detecting and reporting suspected abuse and neglect;

vii. infection control to include blood borne pathogens;

viii. confidentiality;

ix. reporting of incidents;

x. intake to include classification procedures and release;

xi. discipline and due process rights of incarcerated youth;

xii. access to health care (dental, mental, and medical);

xiii. crisis/conflict management, de-escalation techniques, and management of assaultive behavior, including when, how, what kind, and under what conditions physical force, mechanical restraints, and room confinement, isolation may be used;

xiv. suicide prevention and emergency procedures in case of suicide attempt;

xv. sexual misconduct including but not limited to the following:

(a). youth's rights to be free from sexual misconduct, and from retaliation for reporting sexual misconduct;

(b). dynamics of sexual misconduct in confinement;

(c). common reactions of sexual misconduct victims; and

(d). agency policy for prevention and response to sexual misconduct.

3. First Year Training

a. Direct care staff shall receive an additional 120 hours of training during their first year of employment. This training shall include, at a minimum, the following:

i. within the first 60 calendar days of employment:

(a). adolescent development for males and females; and

(b). first aid/CPR;

ii. within the first year of employment:

(a). classification procedures to include intake screenings;

(b). an approved crisis/conflict intervention program;

(c). facility's policy and procedures for suicide prevention, intervention and response;

(d). lesbian, gay bisexual, transgender specific, cultural competence and sensitivity training;

(e). communication effectively and professionally with all youth;

(f). sexual misconduct including but not limited to the following:

(i). youth's rights to be free from sexual misconduct, and from retaliation for reporting sexual misconduct;

(ii). dynamics of sexual misconduct in confinement;

(iii.) common reactions of sexual misconduct victims; and

(iv). the agency policy for prevention and response to sexual misconduct;

(g). key control;

(h). universal safety precautions;

(i). effective report writing; and

(j). needs of youth with behavioral health disorders and intellectual disabilities and medication.

b. All support (non-direct care) staff shall receive an additional 40 hours of training during their first year of employment. The training shall include, at a minimum, the following:

i. philosophy, organization, program, practices and goals of the facility;

ii. specific responsibilities of assigned job duties;

iii. youth's rights;

iv. detecting and reporting suspected abuse and neglect (mandatory reporting guidelines);

v. infection control to include blood borne pathogens;

vi. confidentiality;

vii. reporting of incidents;

viii. discipline and due process rights of incarcerated youth;

ix. sexual misconduct including but not limited to the following:

(a). youth's rights to be free from sexual misconduct, and from the retaliation for reporting sexual misconduct;

(b). dynamics of sexual misconduct in confinement;

(c). common reactions of sexual misconduct victims; and

(d). agency policy for prevention and response to sexual misconduct;

x. first aid/ CPR; and

xi. basic safety and security practices.

4. Annual Training

a. All staff shall receive a minimum of 40 hours of training annually. This training shall include, at a minimum, the following:

i. classification procedures to include intake screenings;

ii. an approved crisis/conflict intervention program;

iii. facility's policy and procedures for suicide prevention, intervention and response;

iv. communication effectively and professionally with all youth;

v. sexual misconduct including but not limited to the following:

(a). youth's rights to be free from sexual misconduct, and from retaliation for reporting sexual misconduct;

(b). dynamics of sexual misconduct in confinement;

(c). common reactions of sexual misconduct victims-add additional; and

(d). the agency policy for prevention and response to sexual misconduct;

vi. key control;

vii. universal safety precautions;

viii. discipline and due process rights of incarcerated youth;

ix. detecting and reporting suspected abuse and neglect (mandatory reporting guidelines);

x. effective report writing; and

xi. needs of youth with behavioral health disorders and intellectual disabilities and medication.

5. Volunteer Training

a. All volunteers shall receive notification and acknowledge in writing their agreement to abide by the following prior to their beginning work and updated annually:

i. philosophy and goals of the facility;

ii. specific responsibilities and limitations;

iii. youth's rights;

iv. detecting and reporting suspected abuse and neglect;

v. confidentiality;

vi. reporting of incidents;

vii. discipline and due process rights of incarcerated youth;

viii. sexual misconduct including but not limited to the following:

(a). youth's rights to be free from sexual misconduct, and from retaliation for reporting sexual misconduct;

(b). dynamics of sexual misconduct in confinement;

(c). common reactions of sexual misconduct victims-add additional; and

(d). the agency policy for prevention and response to sexual misconduct.

ix. basic safety and security practices.

G. Staffing Requirements

1. The provider shall have sufficient available staff to meet the needs of all of the youth.

2. At least two direct care staff shall be on duty at all times in the facility.

3. There shall be a minimum of 1 to 8 ratio of direct care staff to youth during the hours that youth are awake.

4. There shall be a minimum of 1 to 16 ratio of direct care staff to youth during the hours that youth are asleep.

5. Direct care staff of one gender shall be the sole supervisor of youth of the same gender during showers, physical searches, pat downs, or during other times in which personal hygiene practices or needs would require the presence of a direct care staff of the same gender.

6. Video and audio monitoring devices shall not substitute for supervision of youth.

7. The provider shall provide youth that have limited English proficiency with meaningful access to all programs and activities. The provider shall provide reasonable modifications to policies and procedures to avoid discrimination against persons with disabilities.

H. Record Keeping

1. Personnel Files

a. The provider shall maintain a current, accurate, confidential personnel file on each staff. This file shall contain, at a minimum, the following:

i. an application for employment, including the resume of education, training, and experience, including evidence of professional or paraprofessional credentials/certifications according to state law, if applicable;

ii. a criminal background check in accordance with state law;

iii. documentation of staff orientation and annual training;

iv. staff hire and termination dates;

v. documentation of staff current driver's license, if applicable;

vi. annual performance evaluations; and

vii. any other information, reports, and notes relating to the individual's employment with the facility.

2. Youth Files

a. Active Files. The provider shall maintain active files for each youth. The files shall be maintained in an accessible, standardized order and format. The files shall be current and complete and shall be maintained in the facility in which the youth resides. The provider shall have sufficient space, facilities, and supplies for providing effective storage of files. The files shall be available for inspection by the department at all times. Youth files shall contain at least the following information:

i. youth's name, date of birth, social security number, previous home address, sex, religion, and birthplace;

ii. dates of admission and discharge;

iii. other identification data including documentation of court status, legal status or legal custody, and who is authorized to give consents;

iv. name, address, and telephone number of the legal guardian(s), and parent(s), if appropriate;

v. name, address, and telephone number of a physician and dentist;

vi. the pre-admission assessment and admission assessment;

vii. youth's history including family data, educational background, employment record, prior medical history, and prior placement history;

viii. a copy of the physical assessment report;

ix. continuing record of any illness, injury, or medical or dental care when it impacts the youth's ability to function or impacts the services he or she needs;

x. reports of any incidents of abuse, neglect, or incidents, including use of time out, personal restraints, or seclusion;

xi. a summary of releases from the facility;

xii. a summary of court visits;

xiii. a summary of all visitors and contacts including dates, name, relationship, telephone number, address, the nature of such visits/contacts and feedback from the family;

xiv. a record of all personal property and funds, which the youth has entrusted to the provider;

xv. reports of any youth grievances and the conclusion or disposition of these reports;

xvi. written acknowledgment that the youth has received clear verbal explanation and copies of his/her rights, the facility rules, written procedures for safekeeping of his/her valuable personal possessions, written statement explaining his/her rights regarding personal funds, and the right to examine his/her file;

xvii. all signed informed consents; and

xviii. a release order, as applicable.

b. Confidentiality and Retention of Youth Files

i. The provider shall maintain records in accordance with public records and confidentiality laws.

ii. The provider shall maintain the confidentiality and security of all records. Staff shall not disclose or knowingly permit the disclosure of any information concerning the youth or his/her family, directly or indirectly, to any unauthorized person.

I. Incident Reporting

1. Critical Incidents. The provider shall have written policies and procedures for documenting, reporting, investigating, and analyzing critical incidents.

a. The provider shall report any of the following critical incidents to parties noted in Section 7511.I.1.b below:

i. suspected abuse;

ii. suspected neglect;

iii. injuries of unknown origin;

iv. death;

v. attempted suicide;

vi. escape;

vii. sexual assault;

viii. any serious injury that occurs in a facility, including youth on youth assaults, that requires medical treatment; and/or

ix. injury with substantial bodily harm while in confinement, during transportation or during use of physical intervention.

b. The administrator or designee shall immediately report all critical incidents to the:

i. parent/legal guardian;

ii. law enforcement authority, if appropriate, in accordance with state law;

iii. DCFS Licensing Section management staff;

iv. defense counsel for the youth; and

v. judge of record.

c. At a minimum, the incident report shall contain the following:

i. date and time the incident occurred;

ii. a brief description of the incident;

iii. where the incident occurred;

iv. any youth or staff involved in the incident;

v. immediate treatment provided, if any;

vi. symptoms of pain and injury discussed with the physician if applicable;

vii. signature of the staff completing the report;

viii. name and address of witnesses;

ix. date and time the legal guardian, and other interested parties were notified;

x. any follow-up required;

xi. actions to be taken in the future to prevent a reoccurrence; and

xii. any documentation of supervisory and administrative reviews.

d. Investigation of Abuse and Neglect

i. The provider shall submit a final written report of the incident to Licensing, if indicated, as soon as possible but no later than five calendar days following the incident.

ii. An internal investigation shall be conducted of any allegations involving staff and/or youth of abuse or neglect of a youth.

iii. Until the conclusion of the internal investigation, any person alleged to be a perpetrator of abuse or neglect may be placed on administrative leave or may be reassigned to a position having no contact with the complainant or any youth in the facility, relatives of the alleged victim, participants in a juvenile justice program, or

individuals under the jurisdiction of the juvenile court. The provider shall take any additional steps necessary to protect the alleged victim and witnesses.

iv. At the conclusion of the internal investigation, the administrator or designee shall take appropriate measures to provide for the safety of the youth.

v. In the event the administrator is alleged to be a perpetrator of abuse or neglect, the governing body or commission shall:

(a). conduct the internal investigation or appoint an individual who is not a staff of the facility to conduct the internal investigation;

(b). place the administrator on administrative leave, until the conclusion of the internal investigation, or ensure the administrator has no contact with the youth in the facility, relatives of the alleged victim, participants in a youth justice program, or individuals under the jurisdiction of the youth court.

vi. Copies of all written reports shall be maintained in the youth's file.

J. Abuse and Neglect

1. Provider shall ensure staff adheres to a code of conduct that prohibits the use of physical abuse, sexual abuse, profanity, threats, or intimidation. Youth shall not be deprived of basic needs, such as food, clothing, shelter, medical care, and/or security.

2. In accordance with Article 603 of the Louisiana Youth's Code, all staff employed by a juvenile detention facility are mandatory reporters. In accordance with Article 609 of the Louisiana Youth's Code, a mandatory reporter who has cause to believe that a child's physical or mental health or welfare is endangered as a result of abuse or neglect or was a contributing factor in a child's death shall report in accordance with Article 610 of the Louisiana Youth's Code.

K. Grievance Procedure

1. The provider shall have a written policy and procedure which establishes the right of every youth and the youth's legal guardian(s) to file grievances without fear of retaliation.

2. The written grievance procedure shall include, but not be limited to:

a. a formal process for the youth and the youth's legal guardian(s) to file grievances that shall include procedures for filing verbal, written, or anonymous grievances. If written, the grievance form shall include the youth's name, date, and all pertinent information relating to the grievance;

b. a formal process for the provider to communicate with the youth about the grievance within 24 hours and to respond to the grievance in writing within five calendar days;

c. a formal appeals process for provider's response to grievance.

3. Assistance by staff not involved in the issue of the grievance shall be provided if the youth requests.

4. Documentation of any youth's or youth's legal guardian(s) grievance and the conclusion or disposition of these grievances shall be maintained in the youth's file. This documentation shall include any action taken by the provider in response to the grievance and any follow up action involving the youth.

5. The provider shall maintain a log documenting all verbal, written, and/or anonymous grievances filed and the manner in which they were resolved.

6. A copy of the grievance and the resolution shall be given to the youth, a copy maintained in the youth's file, and a copy in a central grievance file.

L. Quality Improvement

1. The provider shall have a written policy and procedure for maintaining a quality improvement program to include:

a. systematic data collection and analysis of identified areas that require improvement;

b. objective measures of performance;

c. periodic review of youth files;

d. quarterly review of incidents and the use of personal restraints and seclusion to include documentation of the date, time and identification of youth and staff involved in each incident; and

e. implementation of plans of action to improve in identified areas.

2. Documentation related to the quality improvement program shall be maintained for at least two years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:

§7513. Admission and Release

A. Limitations for Admission

1. Pre-admission criteria shall limit eligibility to youth likely to commit a serious offense pending resolution of their case, youth likely to fail to appear in court or youth held pursuant to a specific court order for detention.

2. Status offenders shall be detained at the facility only in accordance with state law, or if they have violated a valid court order and have received due process protections and consideration of less restrictive alternatives to include as required by the Federal Juvenile Justice and Delinquency Prevention Act.(OJJDP Act 42 U.S.C.5633)

3. Youth with serious medical, mental health needs, or youth who are detectably intoxicated are not admitted into the facility unless and until appropriate medical professionals clear them. Youth transferred from or cleared by outside medical or mental health facilities are admitted only if the facility has the capacity to provide appropriate ongoing care.

B. Intake on Admission

1. The provider shall have written policies and procedures regarding admission to the facility. Upon admission to the facility, the following shall be adhered to:

a. staff shall review inactive files from any previous admission to obtain history on the youth;

b. each youth shall be informed of the process at the initiation of intake;

c. staff shall review paperwork with law enforcement; and

d. staff shall conduct electronic security wand scanner, frisk, and search of the youth.

2. Youth shall be processed into the facility within four hours of admission. Intake for the juvenile justice system shall be available either onsite or through on-call arrangements 24 hours a day, 7 days a week.

3. Screenings shall include approaches that ensure that available medical/mental health services are explained to youth in a language suitable to his/her age and understanding.

4. All screenings shall be conducted by a qualified medical/mental health professional or staff who have received instruction and training by a qualified medical/mental health professional.

5. Screenings conducted by trained staff shall be reviewed by a qualified medical/ mental health professional within 72 hours of admission.

6. The screenings shall occur within two hours of presentation for admission.

7. The screenings shall be in a confidential setting.

8. When a youth shows evidence of suicide risk, the facility's written procedures governing suicide intervention shall be immediately implemented.

C. Admission Screenings

1. Mental Health Screening

a. The provider shall use a standardized, validated mental health screening tool to identify youth who may be at risk of suicide or who may need prompt mental health services. Provider will ensure that persons administering the mental health screening tool are annually trained/re-trained in its administration and the use of its scores, as recommended by the author of the screening tool if more frequent than annually.

b. All youth whose mental health screening indicates the need for an assessment shall be seen by a qualified mental health professional within 24 hours of admission.

2. Medical Screening

a. The screening shall include:

i. inquiry into current and past illnesses, recent injuries, and history of medical and mental health problems and conditions, including:

(a). medical, dental, and psychiatric/mental health problems;

(b). current medication;

(c). allergies;

(d). use of drugs or alcohol, including types, methods of use, amounts, frequency, time of last use, previous history of problems after ceased use, and any recent hiding of drugs in his/her body;

(e). recent injuries (e.g. at or near the time of arrest);

(f). pregnancy status; and

(g). names and contact information for physicians and clinics treating youth in the community.

b. During this screening, staff shall observe:

i. behavior and appearance, indications of alcohol or drug intoxication, state of consciousness, and sweating;

ii. indications of possible disabilities to include but not limited to vision, hearing, intellectual disabilities and mobility limitations;

iii. conditions of skin, bruises, lesions, yellow skin, rash, swelling, and needle marks or other indications of drug use or physical abuse; and

iv. tattoos and piercings.

c. After the screening, staff shall refer the following youth for needed services:

i. youth who are identified in the screening as requiring additional medical services shall be referred and receive an expedited medical follow-up within 24 hours or sooner if medically necessary;

ii. when a youth shows evidence or alleges abuse or neglect by a parent, guardian, or relative, a staff member shall immediately contact law enforcement and DCFS. In situations where a youth shows evidence of or alleges abuse by law enforcement officials, the parish district attorney's office shall be notified.

D. Processing

1. Staff shall document in the youth's file that the youth was allowed to attempt to contact parents/guardians by phone within six hours of arrival at the facility.

2. The provider shall provide the youth food regardless of the time of arrival.

3. Within 24 hours of admission, youth shall receive a written and oral orientation and documentation of the orientation shall be placed in the youth's file.

4. The orientation shall include the following:

a. identification of key staff and roles;

b. policy on contraband and searches;

c. due process protections;

d. grievance procedures;

e. access to emergency and routine health and mental health care;

f. housing assignments;

g. youth rights;

h. access to education, programs, and recreational materials;

i. policy on use of force, restraints, and isolation;

j. behavior management system;

k. emergency procedures;

l. how to report problems at the facility such as abuse, feeling unsafe, and theft;

m. non-discrimination policies;

n. a list of prohibited practices; and

o. facility rules and regulations.

5. Youth shall be showered and given uniforms and toiletry articles. The youth's own clothing may be laundered, then stored and ready for their release. If the youth refuses to have clothing laundered, there shall be documentation in the youth's file of the refusal.

6. Youth admitted to the facility shall be presented in court for a continued custody hearing within 72 hours or released as required in CC Article 819.

E. Admission Assessments

1. Mental Health Assessment

a. Youth shall receive a mental health assessment performed by a qualified mental health professional within 72 hours unless the youth was assessed within 24 hours of admission. The assessment shall include:

i. history of psychiatric hospitalizations and outpatient treatment (including all past mental health diagnoses);

ii. current and previous use of psychotropic medication;

iii. suicidal ideation and history of suicidal behavior;

iv. history of drug and alcohol use;

v. history of violent behavior;

vi. history of victimization or abuse (including sexual victimization and domestic violence);

vii. special education history;

viii. history of cerebral trauma or seizures;

ix. emotional response to incarceration and arrest; and

x. history of services for intellectual/developmental disabilities.

2. Medical Assessment

a. Youth shall receive a medical assessment, performed by a qualified medical professional within 72 hours following admission. The medical assessment shall include the following:

i. a review with the parent or legal guardian (phone or in person) of the physical issues of the youth;

ii. detailed history of potentially preventable risks to life and health including smoking, drug and alcohol use, unsafe sexual practices, eating patterns, and physical activity;

iii. contact with physician(s) in the community as needed to ensure continuity of medical treatment;

iv. record of height, weight, pulse, blood pressure, and temperature;

v. vision and hearing screening;

vi. testing for pregnancy;

vii. review of screening results and collection of additional data to complete the medical, dental, and mental health histories;

viii. review of immunization history, if available, and attempt to notify parent(s)/guardian(s) of the needed immunization records;

ix. testing for sexually transmitted infections, consistent with state recommendations;

x. review of the results of medical examinations and tests, and initiation of treatment when appropriate; and

xi. identification of signs and symptoms of victimization or abuse including sexual victimization and domestic violence.

b. Youth shall receive a Mantoux Tuberculin skin test within 72 hours of arrival at the facility, unless documentation has been received that a Mantoux Tuberculin skin test was completed in the last six months.

F. Population Management

1. The facility staff shall review the institutional population on a daily basis to ensure that the institutional population does not exceed its capacity.

G. Classification Decisions

1. The provider shall have written policies and procedures regarding housing and programming decisions. The administrator, or designee, will review, on a weekly basis, the process and any decisions that depart from established polices, and shall document such review and any departure from those policies.

2. Classification policies shall include potential safety concerns when making housing and programming decisions including:

a. separation of younger from older youth;

b. physical characteristics to include height, weight, and stature;

c. separation of genders;

d. separation of violent from non-violent youth;

e. maturity;

f. presence of mental or physical disabilities;

g. suicide risk;

h. alleged sex offenses;

i. criminal behavior;

j. specific information about youth who need to be separated from each other (not just general gang affiliation); and

k. identified or suspected risk to include medical, escape, and security.

3. Youth shall be assigned to a room based on classification and will be reclassified if changes in behavior or status are observed.

4. Decisions for housing or programming of youth who are or are perceived to be gay, lesbian, bisexual, or transgender youth on the basis of their actual or perceived sexual orientation shall be made on an individual basis in consultation with the youth and the reason(s) for the particular treatment shall be documented in the youth's file. The administrator or designee shall review each decision.

5. When necessary, staff shall develop individualized classification decisions to provide for the safety of particular youth.

H. Release Procedures

1. The provider shall have a written policy and procedure for releasing youth to include, but not limited to, the following:

a. verification of identity of the person who the youth is being released to;

b. verification that a release order is obtained;

c. completion of release arrangements, including the person or agency to whom the youth is to be released;

d. return of personal property;

e. completion of any pending action, such as claims for damaged or lost possessions;

f. notification of arrangements for medical follow-up when needed, including continuity of medications; and

g. instructions on forwarding of mail.

2. The provider shall have a written policy and procedure for the temporary release of youth for escorted and unescorted day leaves into the community for the following:

a. needed medical and dental care;

b. to visit ill family members or attend funerals; and

c. to participate in community affairs and/or events that would have a positive influence on the youth.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:

§7515. Youth Protections

A. Rights

1. The provider shall have written policies and procedures that ensure each youth's rights are guaranteed and protected.

2. A youth shall not be subjected to discrimination based on race, national origin, religion, sex, sexual orientation, gender identity, or disability.

3. A youth shall not be subjected to supervision or control by other youth. Supervision is to be exercised only by facility staff.

4. A youth has the right to be free from physical, verbal, or sexual assault by other youth or staff.

5. A youth shall not be required to work unless the activity is related to general housekeeping or as required by a court order or deferred prosecution agreement for community service restitution.

6. A youth shall not participate in medical, pharmaceutical, or cosmetic experiments.

7. A youth has the right to consult with clergy and participate in religious services in accordance with his/her faith, subject to the limitations necessary to maintain facility security and control. Youth shall not be forced to attend religious service and disciplinary action shall not be taken toward the youth who choose not to participate in such services.

8. Each youth shall be fully informed of these rights and of all rules and regulations governing youth conduct and responsibilities, as evidenced by written acknowledgment, at the time of admission of the receipt of a copy of youth rights, and when changes occur.

B. Access Issues

1. Telephone Usage

a. The provider shall have a written policy and procedure regarding telephone use.

b. Youth shall be permitted to have unrestricted and confidential telephone contact with professionals, such as attorneys, probation officers, and caseworkers.

c. In addition to the persons identified above in Section 7515.B.1.b, the youth shall be allowed a minimum of two free telephone calls per week, 10 minutes each to persons on the youth's approved list.

2. Mail/Correspondence

a. The provider shall have a written policy and procedure regarding youth sending and receiving mail/correspondence.

b. A youth's written correspondence shall not be opened or read by staff unless the administrator, or designee, has compelling reasons to believe the correspondence contains material which presents a clear and present danger to the health or safety of the youth, other persons, or the security of the facility. A record shall be maintained in the youth's file when mail is read by staff, documenting the specific reason why the mail was read, and signed by the administrator or designee. Mail may be opened by staff only in the presence of the youth with inspection limited to searching for contraband.

c. Written communication with specific individuals may be restricted by:

i. the youth's court ordered rules of probation or parole;

ii. the facility's rules of separation; or

iii. a specific list of individuals furnished by the youth's parent/legal guardian indicating individuals who should not communicate with the youth.

d. Incoming correspondence from a restricted source shall be returned unopened to the sender. When mail is withheld from the youth, the reasons shall be documented in the youth's file and the youth shall be informed.

e. Youth shall be provided writing material and postage for the purpose of correspondence. Outgoing mail shall be sealed by the youth in the presence of staff.

f. Provisions shall be made to forward mail when the youth is released or transferred.

g. Money received in the mail shall be held for the youth in his/her personal property inventory or returned to the sender.

h. Incoming legal mail shall not be opened, read, or copied.

3. Visitation

a. The parent/legal guardian shall be allowed to visit youth unless prohibited by the court.

b. Visits with youth by attorneys and/or their representatives, and other professionals associated with the youth shall not be restricted and shall be conducted in private such that confidentiality may be maintained.

c. Visits to youth may be restricted if it is determined by the administrator, or designee, that allowing the visit would pose a threat to the safety or security of the staff, other youth, visitors, or the facility. When a visit is restricted, the visitor(s) shall be notified at the time the determination is made. The reason why the visit was restricted shall be documented in the youth's file.

d. The visitors of the youth shall be provided a written copy of the visitation policy and schedule.

e. Visitation rules shall be posted in public view.

f. Other individuals may be granted visits at the discretion of the administrator or his/her designee.

g. Visitors who are under the influence of alcohol or drugs, in possession of contraband, exhibiting disruptive behavior, wearing improper attire, or unable to produce valid identification shall not be permitted to visit, and the occurrence shall be documented in the youth's file.

h. A record shall be maintained in the youth's file of the names of all persons who visit the youth.

i. A record shall be maintained in the youth's file of the names of individuals prohibited to visit with the youth and the reason(s) for the denial.

j. Visiting hours shall be regularly scheduled so that visitors have an opportunity to visit at set times at least twice a week.

k. Special visiting arrangements shall be made for visitors who cannot visit the youth during the regular visiting schedule.

l. Youth who do not have visitors shall not be routinely locked in their rooms during visiting hours.

C. Prohibited Practices

1. The provider shall have a written list of prohibited practices by staff. The following practices are prohibited:

a. the use of corporal punishment by any staff. Corporal punishment does not include the right of staff to protect themselves or others from attack, nor does it include the exercise of approved physical restraint as may be necessary to protect a youth from harming himself/herself or others;

b. any act or lack of care that injures or significantly impairs the health of any youth, or is degrading or humiliating in any way;

c. placement of a youth in unapproved quarters;

d. forcing a youth to perform any acts that could be considered cruel or degrading;

e. delegation of the staff's authority for administering discipline and privileges to other youth in the facility;

f. group punishment for the acts of an individual;

g. deprivation of a youth's meals or regular snacks;

h. deprivation of a youth's court appearances;

i. deprivation of a youth's clothing, except as necessary for the youth's safety;

j. deprivation of a youth's sleep;

k. deprivation of a youth's medical or mental health services;

l. physical exercise used for discipline, compliance, or intimidation;

m. use of any mechanical restraint as a punishment;

n. use of any chemical restraint; and

o. administration of medication for purposes another than treatment of a medical, dental, or mental health condition.

2. Use of force by staff on detained youth, through either acts of self-defense or the use of force to protect a youth from harming himself/herself or others, shall be immediately reported in writing to the administrator of the facility. A copy of the written report shall be maintained in the youth's file.

3. The youth shall receive a list of the prohibited practices. There shall be documentation of acknowledgement of receipt of the list of prohibited practices by the youth in the youth's file.

4. A list of prohibited practices shall be posted in the facility.

5. Any instance of a prohibited practice shall be documented immediately in the youths file.

D. Behavior Management System

1. The provider shall have a written policy and procedure for the behavior management system to be used to assist the youth in conforming to established standards of behavior and the rules and regulations of the facility.

2. The behavior management system shall provide written guidelines and parameters that are readily definable and easily understood by youth and staff.

3. The behavior management system shall be designed to provide graduated incentives for positive behavior and afford proportional measures of accountability for negative behavior.

4. Incentives shall not include any program, service, or physical amenity to which the youth is already entitled by these rules or federal, state, or local laws.

E. Room Confinement/Isolation/Segregation

1. The provider shall have written policies and procedures to be adhered to when a youth is confined to his/her sleeping room or an isolation room. They will include the use of room confinement, room isolation, protective isolation, and administrative segregation.

2. When a youth is placed in room confinement/isolation/segregation, the following shall be adhered to:

a. The administrator or designee shall approve the confinement of a youth to his/her sleeping room or an isolation room.

b. During the period of time a youth is in confinement, the youth shall be checked by a staff member at least every 15 minutes. The staff shall be alert at all times for indications of destructive behavior on the part of the youth, either self-directed or toward the youth's surroundings. Any potentially dangerous item on the youth or in the sleeping rooms shall be removed to prevent acts of self-inflicted harm.

c. The following information shall be recorded and maintained for that purpose prior to the end of the shift on which the restriction occurred:

i. the name of the youth;

ii. the date, time and type of the youth's restriction;

iii. the name of the staff member requesting restriction;

iv. the name of the administrator or designee authorizing restriction;

v. the reason for restriction;

vi. the date and time of the youth's release from restriction; and

vii. the efforts made to de-escalate the situation and alternatives to isolation that were attempted.

d. Staff involved shall file an incident report with the shift supervisor by the end of the shift. The report shall outline in detail the presenting circumstances and a copy shall be kept in the youth's file and a central incident report file. At a minimum, the incident report shall contain the following:

i. name of the youth;

ii. date and time the incident occurred;

iii. a brief description of the incident;

iv. where the incident occurred;

v. any youth and/or staff involved in the incident;

vi. immediate treatment provided if any;

vii. signature of the staff completing the report; and

viii. any follow-up required.

e. If the confinement continues through a change of shifts, a relieving staff member shall check the youth and the room prior to assuming his or her post and assure that the conditions set forth in these rules are being met.

f. There shall be a means for the youth to communicate with staff at all times.

g. There shall be no reduction in food or calorie intake.

h. The youth shall have access to bathroom facilities, including a toilet and washbasin.

3. Room Isolation

a. This type of isolation shall be utilized only while the youth is an imminent threat to safety and security.

b. Staff shall hold a youth in isolation only for the time necessary for the youth to regain self-control and no longer pose a threat. The amount of time shall in no case be longer than four hours.

4. Room Confinement

a. Room confinement shall not be imposed for longer than 72 hours.

b. If a youth is placed in room confinement for longer than eight hours, the youth shall be allowed due process. Due process procedures include the following:

i. written notice to the youth of the alleged rule violation;

ii. a hearing before a disciplinary committee comprised of impartial staff who were not involved in the incident of alleged violation of the rule. The disciplinary committee may gather evidence and investigate the alleged violation. During the hearing, the youth will be allowed to

be present provided he/she does not pose a safety threat. The youth may have a staff member of his/her choosing present for assistance. The youth will be allowed to present his/her case and present evidence and/or call witnesses;

iii. following the hearing, the disciplinary committee shall render decision and find the youth at fault or not;

iv. the youth shall receive a written notice of the committee's decision and the reasons for the decision;

v. the youth may appeal a finding of being at fault to the administrator assigned to the JDF.

5. Administrative Segregation

a. No youth shall be placed on administrative segregation for longer than 24 hours without a formal review of the youth's file by a qualified mental health professional and the facility administrator.

b. While a youth is on administrative segregation, the youth shall be provided with daily opportunities to engage in program activities such as education and large muscle exercise, as his/her behavior permits. The program activities may be individual or with the general population, at the discretion of the administrator or designee.

F. Staff Intervention/Restraints

1. The provider shall have written policies and procedures and practices regarding the progressive response for a youth who poses a danger to themselves, others, or property. Approved physical escort techniques, physical restraints and mechanical restraint devices are the only types of interventions that may be used in the facility. Physical and mechanical restraints shall only be used in instances where the youth's behavior threatens imminent harm to the youth or others, or serious property destruction, and shall only be used as a last resort. Plastic cuffs shall only be used in emergency situations. Use of any percussive or electrical shocking devices or chemical restraints is prohibited.

2. Restraints shall not used for punishment, discipline, retaliation, harassment, intimidation or as a substitute for room restriction or confinement.

3. When a youth exhibits any behavior that may require staff intervention, the following protocol shall be adhered to when implementing the intervention unless the circumstances do not permit a progressive response:

a. Staff shall begin with verbal calming or de-escalation techniques.

b. Staff shall use an approved physical escort technique when it is necessary to direct the youth's movement from one place to another.

c. Staff shall use the least restrictive physical or mechanical restraint necessary to control the behavior.

d. If physical force is required, the use of force shall be reasonable under the circumstances existing at the moment the force is used and only the amount of force and type of restraint necessary to control the situation shall be used.

e. Staff may proceed to a mechanical restraint only when other interventions are inadequate to deal with the situation.

f. Staff shall stop using the intervention as soon as the youth re-gains self control.

4. During the period of time a restraint is being used:

a. the youth shall be checked by a staff member at least every 15 minutes. Documentation of these checks shall be recorded and maintained in the youth's file. If the use of the restraint exceeds 60 minutes, a health professional must authorize the continued use of the restraint. However, restraints cannot be used for longer than four hours;

b. there shall be a means for the youth to communicate with staff at all times;

c. staff shall not withhold food while a youth is in a mechanical restraint;

d. the youth shall have access to bathroom facilities, including a toilet and washbasin.

5. In all situations in which a restraint is used, staff involved shall record an incident report with the shift supervisor by the end of the shift. The report shall outline in detail the presenting circumstances and a copy shall be kept in the youth's file and a central incident report file. At a minimum, the incident report shall contain the following:

a. the name of the youth;

b. the date, time, and location the intervention was used;

c. the type of intervention used;

d. the name of the staff member requesting use of the intervention;

e. the name of the supervisor authorizing use of the intervention;

f. a brief description of the incident and the reason for the use of the intervention;

g. the efforts made to de-escalate the situation and alternatives to the use of intervention that were attempted;

h. any other youth and/or staff involved in the incident;

i. any injury that occurred during the intervention restraint and immediate treatment provided if any;

j. the date and time the youth was released from the intervention;

k. the name and title of the health professional authorizing continued use of a restraint if necessary beyond 60 minutes;

l. signature of the staff completing report; and

m. any follow-up required.

6. The youth shall receive a list of the prohibited practices. There shall be documentation of acknowledgement of receipt of the list of prohibited practices by the youth in the youth's file.

7. Facility staff shall not use physical restraints or mechanical restraints unless they have been trained in the use of such restraints. Training shall include methods of monitoring and assessing a restrained youth for injuries and loss of circulation as a result of the use of mechanical restraint.

8. After any incident of use of a restraint, medical follow-up shall occur as soon as a qualified medical professional is available at the facility, or sooner if medically necessary as determined by the facility administrator.

G. Prohibited Practices When Using Restraints

1. The provider shall have a written list of prohibited practices by staff members when using a restraint. This following are prohibited:

a. restraints that are solely intended to inflict pain;

b. restraints that put a youth face down with sustained or excessive pressure on the back, chest cavity, neck or head;

c. restraints that obstruct the airway or impair the breathing of the youth;

d. restraints that restrict the youth's ability to communicate;

e. restraints that obstruct a view of the youth's face;

f. any technique that does not allow monitoring of the youth's respiration and other signs of physical distress during the restraint;

g. any use of four or five-point restraints, straightjackets, or restraint chairs;

h. mechanical restraint devices that are so tight they interfere with circulation or that are so loose they cause chafing of the skin;

i. use of a waistband restraint on a pregnant youth;

j. use of a mechanical restraint that secures a youth in a position with his/her arms and/or hands behind the youth's back (hog-tied) or front, with arms or hands secured to the youth's legs;

k. use of a mechanical restraint that affixes the youth to any fixed object, such as room furnishings or fixtures; and/or

l. use of any maneuver that involves punching, hitting, poking, pinching, or shoving.

2. A youth in mechanical restraints shall not participate in any physical activity, other than walking for purposes of transportation.

3. A list of these prohibitions shall be posted in the facility.

4. The youth shall receive a list of the prohibitions when using a restraint. There shall be documentation of acknowledgement of receipt of the list of prohibitions in the youth's file.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:

§7517. Facility Services

A. Education

1. The provider shall have written policies and procedures, and practices to ensure that each youth has access to the most appropriate educational services consistent with the youth's abilities and needs, taking into account his/her age, and level of functioning.

2. The provider shall provide accommodations for educational services to be provided by the local school district in accordance with local school board calendar.

3. Prior to the end of the first official school day following admission, the youth shall receive a brief educational history screening with respect to their school status, special education status, grade level, grades, and history of suspensions or expulsions. Staff shall use this information to determine initial placement in the facility educational program.

4. The youth shall receive a free and appropriate public education.

5. Within three calendar days of the youth's arrival at the facility, the provider shall request educational records from the youth's previous school.

6. The youth shall attend the facility school at the earliest possible time but within three calendar days of admission to the facility.

7. The youth's admission assessment shall identify if the youth has any disabilities. Youth with disabilities shall be identified to the local school district.

8. The provider shall ensure youth have access to vocational training, GED programs, and other alternative educational programming if available from the local school district.

9. Youth in restricted, disciplinary, or high security units shall receive an education program comparable to youth in other units in the facility consistent with safety needs.

10. When youth are suspended from the facility school, the suspension shall comply with local jurisdiction due process requirements.

11. Behavior intervention plans shall be developed for a youth whose behavior interferes with their school attendance and progress.

12. The provider shall have available reading materials geared to the reading levels, interests, and primary languages of confined youth.

13. The school classes shall be held in classrooms/multi-purpose rooms. The provider shall ensure that the educational space is adequate to meet the instructional requirements of each youth.

14. The provider shall ensure that youth are available for the minimum minutes in a school day required by law.

15. The administrator shall immediately report in writing to the local school district if the facility school is not being staffed adequately to meet state student to teacher ratios for education, including not but not limited to, special education staff and substitute teaching staff. If the issue is not timely resolved by the local school district, then the administrator shall file a written complaint with the State Board of Education and cooperate with any subsequent directives received from the State Board of Education.

B. Daily Living Services

1. Written schedules of daily routines shall be posted and available to the youth.

2. Personal Possessions

a. Space shall be provided for secure storage of each youth's personal property.

b. A separate locked cabinet or drop safe for money and other valuables shall be provided.

3. Clothing and Bedding

a. The provider shall maintain an inventory of clothing, and bedding to ensure consistent availability and replacement of items that are lost, destroyed, or worn out.

b. The provider shall provide clean underclothing, socks, and outerwear that fit properly.

c. The provider shall provide for the thorough cleaning and when necessary, disinfecting of youth's personal clothing.

d. The provider shall issue clean bedding and linen, including two sheets, a pillow, pillowcase, a mattress, and sufficient blankets to provide reasonable comfort.

e. Linen shall be exchanged weekly and towels exchanged daily.

4. Bathing and Personal Hygiene

a. Youth shall be given appropriate instructions on hygiene and shall be required to comply with facility rules of personal cleanliness and oral hygiene.

b. Youth shall be required to bath or shower daily and/or after strenuous exercise.

c. Youth shall have access to adequate personal hygiene and toiletry supplies, such as hairbrushes, toothbrushes including hygiene supplies specific for females, if females are detained in the facility.

d. Items that could allow for spread of germs shall not be shared among youth.

e. Shaving equipment shall be made available upon request under close supervision on an as needed basis.

C. Food Services

1. Food Preparation

a. The provider shall develop and implement a written policy and procedure for providing food services. Accurate records shall be maintained of all meals served. All components of the food service operation in the facility shall be in compliance with all applicable public health requirements.

b. A staff member experienced in food service management shall supervise food service operations.

c. A nutritionist, dietitian, or other qualified professional shall ensure compliance with recommended food allowances and review a system of dietary allowances.

d. A different menu shall be followed for each day of the week and the provider shall keep dated records of menus, including substitutions and changes.

e. The kitchen, consisting of all food storage, food preparation, food distribution, equipment storage, and layout shall comply with Office of Public Health requirements.

2. Nutritional Requirements

a. A youth shall receive no fewer than three nutritionally balanced meals in a 24 hour period.

b. Meals shall be planned and shall provide a well-balanced diet sufficient to meet nutritional needs.

c. Youth shall receive snacks in the evenings.

3. Modified Diets

a. The provider shall provide meals for youth with special dietary requirements, such as youth with allergies or other medical issues, pregnant youth, and youth with dental problems, and youth with religious beliefs that require adherence to religious dietary laws.

4. Daily Schedule

a. Three meals, two of which shall be hot, shall be provided daily, lasting a minimum of 20 minutes each.

b. No more than 14 hours shall elapse between the evening meal and breakfast meal.

c. Variations shall be allowed on weekends and holidays.

d. Regular meals and/or snacks shall not be withheld for any reason.

e. Youth shall not be forced to eat any given food item.

f. Provisions shall be made for the feeding of youth admitted after the kitchen has been closed for the day.

g. Normal table conversation shall be permitted during mealtimes.

h. There shall be a single menu for staff and youth.

5. General Issues

a. The general population shall not be fed meals in sleeping rooms except under circumstances where safety and security of the building and/or staff would otherwise be jeopardized.

D. Health Related Services

1. Health Care

a. The provider shall have written policies and procedures and practices to ensure preventive, routine, and emergency medical, mental health and dental care for youth.

b. The provider shall have a responsible health authority accountable for health care services pursuant to a contract or job description.

c. The provider shall provide health services to youth free of charge.

d. Limit sharing of confidential information to those who need the information to provide for the safety, security, health, treatment, and continuity of care for youth, consistent with state and federal law.

e. Each provider shall provide a dedicated room or rooms for examinations.

2. Medical Care

a. The provider shall have availability or access to a physician or local emergency room 24 hours, seven days a week.

b. Staff assigned to provide medical care shall be qualified to do so as required by law.

c. The youth shall be notified of how and to whom to report complaints about any health related issues or concerns.

d. The provider shall ensure that each youth receive medical care if they are injured or abused.

e. The provider shall immediately attempt to notify the youth's parent/legal guardian of a youth's illness or injury that requires service from a hospital.

f. Youth may request to be seen by a qualified medical professional without disclosing the medical reason and without having non-health care staff evaluate the legitimacy of the request.

g. The provider shall ensure that any medical examination and treatment conforms to state laws on medical treatment of minors, who may give informed consent for such treatment, and the right to refuse treatment.

h. Medical staff shall obtain informed consent from a youth and/or parent/legal guardian as required by law, and shall honor refusals of treatment.

i. When medical and/or mental health staff believe that involuntary treatment is necessary, the treatment shall be conducted in a hospital and not at the facility after compliance with legal requirements.

j. Staff shall document the youth and/or parent/legal guardian's consent or refusal, including counseling with respect to treatment, in the youth's medical file.

k. Pregnant youth shall be provided prenatal care. Any refusal for prenatal care by the pregnant youth shall be documented in their file.

l. Youth who are victims of sexual assault shall receive immediate medical treatment, counseling, and other services.

m. Files of all medical examinations, follow-ups and services, together with copies of all notices to a parent/legal guardian shall be kept in the youth's medical file.

n. Youth placed in medical isolation shall participate in programming as determined by the facility's qualified medical professional.

3. Mental Health Care

a. The provider shall ensure that 24-hour on-call or emergency mental health services are available for youth.

b. Youth shall be appropriately assessed and treated for suicide risk, to include the following principles.

i. All staff working with youth shall receive training on recognition of behavioral and verbal cues indicating vulnerability to suicide, and what to do in case of suicide attempts or suicides to include the use of a cut-down tool for youth hanging.

ii. Staff shall document the monitoring of youth on suicide watch at the time they conduct the monitoring.

iii. Qualified mental health professionals shall determine the level of supervision to be provided.

iv. Qualified mental health professionals shall provide clear, current information about the status of youth on suicide watch to staff supervising youth.

v. Staff shall not substitute supervision aids, such as closed circuit television or placement with roommates, for in-person one-on-one staff monitoring.

vi. Youth at risk of suicide shall be engaged in social interaction and shall not be isolated. Youth on all levels of suicide precautions shall have an opportunity to participate in school and activities to include the one-on-one staff person.

vii. Youth on suicide watch shall not be left naked. Clothing requirements shall be determined by a qualified mental health professional.

viii. Only a qualified mental health professional shall authorize the release of a youth from suicide watch or lower a youth's level of precautions. Qualified mental health professionals shall return youth to normal activity as soon as possible.

ix. A qualified mental health professional shall follow-up with youth during and after the youth is released from suicide watch. The follow-up shall be to the degree and frequency that the qualified mental health professional determines is necessary to meet the youth's mental health needs.

x. Suicides or attempts of suicide shall be accurately documented. There shall be an administrative and mental health review and debriefing after each such occurrence.

xi. Staff shall immediately notify the parent/legal guardian following any incident of suicidal behavior.

xii. Staff shall immediately notify the parent/legal guardian following any incident of self-harm as determined by a qualified mental health professional.

4. Medication

a. The provider shall ensure that medication is administered by a registered nurse, licensed practical nurse, or licensed medical physician; by persons with appropriate credentials, training, or expertise in accordance with R.S. 15:911.; or self-administered according to state law. All administration, conditions, and restrictions of medication administration shall be in accordance with R.S. 15:911.

b. The administration of all prescription and non-prescription medication shall be documented whether administered by staff or supervised by staff while self-administering. This documentation shall include:

i. the youth's name;

ii. date;

iii. time;

iv. medication administered;

v. the name of the person administering the medication; and

vi. the youth's signature, if self-administered.

c. If a youth refuses to take medication, documentation shall include:

i. the youth's name;

ii. date;

iii. time;

iv. medication to be administered;

v. the name of the person attempting to administer the medication;

vi. the refusal;

vii. reason for the refusal; and

viii. the youth's signature, if youth is willing to sign.

d. Receipt of prescription medication shall be by a qualified medical professional or unlicensed trained personnel and the process shall be as follows.

i. When medication arrives at the facility, the qualified medical professional/unlicensed trained personnel shall conduct a count with the name of the person delivering the medication and document the count utilizing a facility form which includes the person delivering medication; the name of youth to whom the medication is prescribed and the amount, physician, and date prescribed for all medication.

ii. All medication shall be in the original container and not expired.

iii. The qualified medical professional shall prepare a medication administration record for all medications.

iv. The qualified medical professional shall place the medication in a locked medication location.

e. The qualified medical professional shall identify and confirm the prescription of all medication received at the facility.

f. There shall be a system in place to ensure that there is a sufficient supply of prescribed medication available for all youth at all times.

i. At shift change, a qualified medical professional or unlicensed trained personnel shall review the medication administration record to ensure that medication was administered as ordered and maintain an inventory of the medication.

ii. Any deviation in the medication count shall be reported to the administrator or designee when identified.

iii. The qualified medical professional or unlicensed trained personnel shall ensure that any medication given to a youth is in accordance with a physician's order.

iv. There shall be a system in place for the documentation of medication errors.

g. Standing orders for non-prescription medication, including directions from the physician indicating when they should be contacted, shall be signed by a physician. There shall be no standing orders for prescription medication. The orders shall be reviewed and signed annually.

h. Medication shall not be used as a disciplinary measure, for the convenience of staff, or as a substitute for programming.

i. The provider shall notify the youth's parent/legal guardian of the potential benefits and side effects of medication prescribed while the youth is in the facility. The youth or the youth's parent/legal guardian must consent to changes to their medication, prior to administration of any new or altered medication.

j. The qualified medical professional or unlicensed trained personnel shall ensure that the on call physician is immediately notified of any side effects observed by the youth, or by staff, as well as, any medication errors. Any negative side effects shall be promptly recorded in the youth record. The parent/legal guardian shall be notified verbally or in writing within 24 hours of any such side effects and a notation of such communication shall be documented in the youths file.

k. Medication shall be stored under proper conditions of sanitation, temperature, light, moisture, ventilation, and security, as required by manufacturer's guidelines and/or law.

l. Discontinued and outdated medication, as well as, medication with damaged containers, or illegible or missing labels shall be properly disposed of according to state law.

m. The provider shall maintain an adequate supply of emergency medication and easily accessible information to include the phone number of the poison control center in case of overdoses or toxicological emergencies.

5. Dental Care

a. The provider shall have a written policy and procedure and practice for providing dental services to all youth to include the following.

i. Youth shall be allowed to brush their teeth at least twice daily.

ii. The provider shall provide a dental examination by a physician/dentist, as needed.

iii. The provider shall provide emergency dental care, as needed.

iv. The qualified medical professional will contact the youth's parents/legal guardian regarding any dental needs identified.

v. All dental examinations, follow-ups, and services shall be documented in the youth's medical file.

6. Immunizations

a. The provider shall have a written policy and procedure and practice regarding the maintenance of immunization records.

b. Within seven days of admission, each youth's immunization records shall be requested from the school of record or other resources. If not received in the time specified, staff shall follow-up with school or other resources. Any immunization record received shall be included in the youth's medical file.

c. The provider shall provide or make arrangements for needed immunizations, as identified by a qualified medical professional.

E. Exercise/Recreation/Other Programming

1. The provider shall have a policy and procedure for approving a program of exercise, recreation, and other programming for all youth. The program will ensure that girls have reasonable opportunities for similar activities, skill development, and an opportunity to participate in programs of comparable quality.

2. Youth in the facility, including youth on disciplinary or restricted status, shall receive at least one hour of large muscle exercise daily. This exercise shall be outside, weather permitting.

3. Youth in the facility shall receive a minimum of one hour of recreational time per day outside of the youth's sleeping room. Recreational activities shall include a range of activities in dayroom/multipurpose rooms or common areas, including but not limited to reading, listening to the radio, watching television or videos, board games, drawing or painting, listening to or making music, and letter writing.

4. The provider shall provide functioning recreational equipment and supplies for physical education activities.

5. Youth shall be provided unstructured free time. There shall be an adequate supply of games, cards, writing, and art materials for use during unstructured recreation time.

6. Reading materials appropriate for the age, interests, and literacy levels of youth shall be available in sufficient variety and quantity to the youth. Youth shall be allowed to keep reading materials in their rooms including religious reading material.

7. The provider shall offer life and social skill competency development, which helps youth function more responsibly and successfully in everyday life situations. These shall include social skills that specifically address interpersonal relationships, through staff interactions, organized curriculums, or other programming.

8. Staff, volunteers, and community groups shall provide additional programming reflecting the interests and needs of various racial and cultural groups within the facility and are gender-responsive. The facility activities may include art, music, drama, writing, health, fitness, meditation/yoga, substance abuse prevention, mentoring, and voluntary religious or spiritual groups.

9. The provider shall offer gender-responsive programming, to include topics such as physical and mental abuse, high-risk sexual behavior, mental health, parenting classes, and substance abuse issues.

10. The provider shall develop a daily activity schedule, which is posted in each living area and outlines the days and times of each youth activity.

F. Transportation

1. The provider shall have written policies and procedures and practices to ensure that each youth is provided with transportation necessary to meet his/her needs and in a safe and secure manner.

2. The provider shall ensure proper use of official vehicles and guard against use of a vehicle in an escape attempt.

3. Any vehicle used in transporting youth shall be properly licensed and inspected according to state law.

4. The driver shall be properly licensed.

5. The number of passengers shall not exceed vehicle rated capacity.

6. Youth shall not be permitted to drive facility vehicles.

7. Bodily injury and property damage liability shall be maintained for all vehicles.

8. Youth shall not be transported in open truck beds.

9. Seat belts shall be worn at all times.

10. Doors shall remain locked when in transport.

11. Youth shall not be affixed to any part of the vehicle or secured to another youth.

12. Mechanical restraints used during routine transportation in a vehicle or movement of a youth from the facility to another location outside the facility shall not be required to be documented as a restraint.

13. At least one staff member transporting a youth shall be of the same gender as the youth in transport.

14. The driver shall have the ability to communicate to the facility.

15. All vehicles used for the transportation of youth shall be maintained in a safe condition and in conformity with all applicable motor vehicle laws.

16. The provider shall ensure that an appropriately equipped first aid kit is available in all vehicles used to transport youth.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:

§7519. Physical Environment

A. Physical Appearance and Conditions

1. The provider shall have written policies and procedures and practices for the maintenance of a clean and sanitary facility that promotes a safe and secure environment for youth and addresses emergency repairs, replacement of equipment and general upkeep, preventive and ongoing maintenance of the physical plant and equipment.

2. Weekly sanitation inspections shall be made of all facility areas. A designated staff member shall submit a written sanitation report to the administrator. A copy of the report shall be kept on file.

3. The provider shall have an effective pest control program to prevent insect and rodent infestation.

4. The facility's perimeters shall be controlled by appropriate means to provide that youth remain within the perimeter and to prevent access by the general public without proper authorization. Facilities shall not utilize razor wire to secure the perimeter.

5. The provider shall provide heating, cooling and ventilation systems that are appropriate to summer and winter comfort zones, with no unhealthy extremes.

6. The provider shall ensure access to clean drinking water.

B. Positive Institutional Atmosphere

1. Staff demonstrates an appropriate level of tolerance of normal adolescent behavior in their day to day working with youth.

2. Furnishings and other decorations reflect a home-like, non-penal environment to the maximum extent possible.

3. Staff recognizes and celebrates important holidays, birthdays, and other dates of significance to youth.

4. The décor and programming acknowledge and value the diverse population of youth in the facility.

C. Dining Areas

1. Dining areas shall be clean, well lit, ventilated and equipped with dining tables and appropriate seating for the dining tables.

D. Sleeping Areas

1. Size requirements for single and double occupancy housing units shall be as follows.

a. A single occupancy room shall have at least 35 square feet of unencumbered space. At least one dimension of the unencumbered space shall be no less than seven feet. In determining unencumbered space in the cell or room, the total square footage is obtained and the square footage of fixtures and equipment is subtracted.

b. A double occupancy room shall have at least 50 square feet of unencumbered space.

2. Ceilings shall be a minimum of 10 feet from ceiling to floor.

3. There shall be separate sleeping rooms for male and female youth.

4. Youth held in sleeping rooms shall have access to a toilet above floor level, a washbasin, clean drinking water, running water, and a bed above floor level.

5. The provider shall not use any room that does not have natural lighting as a sleeping room.

6. The provider shall remove protrusions and other tie-off points from rooms.

7. Doors

a. The doors of every sleeping room shall have a view panel that allows complete visual supervision of all parts of the room. The view panel shall be one-quarter inch tempered or safety glass panels at least 10 inches square.

b. Doors shall be hinged to a metal frame set securely in the wall with sound insulation strips on the jamb.

c. Hinge pins of doors shall be tamperproof and non-removable.

d. In newly constructed or renovated facilities doors to sleeping rooms shall be arranged alternately so that they are not across the corridor from each other.

e. Each youth's housing door shall be hung so that it opens outward, in the opposite direction of the youth living area, or slide horizontally into a recessed pocket in order to prevent the door from being barricaded.

8. Lighting in sleeping rooms shall provide adequate illumination and shall be protected by a tamperproof safety cover.

9. Furniture and Fixtures

a. All furnishings, fixtures, and hardware in sleeping rooms shall be as suicide resistant as possible.

b. All youth shall have a bed above floor level.

c. Only flame-retardant furnishings shall be used in the facility.

10. There shall not be any exposed pipes in sleeping rooms. Traps and shut-off values shall be behind locked doors outside the sleeping rooms.

E. Bathrooms

1. Individual showers shall be provided for all youth, with a ratio of not less than one shower for each six youth in the population.

2. At least one washbasin shall be provided for each six youth.

3. Urinals may be substituted for up to one-half of the toilets in male units.

4. A minimum of one toilet for each six youth shall be provided in each living unit.

5. Youth in "dry" rooms (without toilets) shall have immediate access to toilets (no longer than a five minute delay after a youth request).

6. Bathroom fixtures shall be sturdy, securely fastened to the floor and/or wall.

7. Showers shall be equipped to prevent slipping.

8. Bathroom facilities shall be designed so that youth are able to shower and perform bodily functions without staff or other youth viewing them naked.

F. Exercise Area

1. Facilities shall have outdoor exercise areas 100 square feet per youth for the maximum number of youth expected to use the space at one time, but not less than 1,500 square feet of unencumbered space.

G. Day Room Area

1. Facilities shall have dayrooms that provide a minimum of 35 square feet of space per youth (exclusive of lavatories, showers, and toilets) for the maximum number of youth per the unit capacity, and no dayroom encompasses less than 100 square feet of space (exclusive of lavatories, showers, and toilets).

H. Interview, Visitation and Counseling Areas

1. The provider shall provide sufficient space for interviewing, counseling, and visiting areas.

2. The interview and visiting room shall allow privacy, yet permit visual supervision by staff, and shall be located within the security perimeter completely separate from the youth living quarters.

I. Laundry

1. The provider shall have a process in place to ensure clean laundry is available for the youth.

J. Storage Areas

1. The provider shall have securely locked storage space for all potentially harmful materials. Keys to such storage spaces shall only be available to authorized staff members.

2. All service and maintenance areas shall be locked and shall be inaccessible to the youth.

3. Separate areas for mechanical equipment shall be provided in a location inaccessible to the youth.

4. Storage space shall be provided for janitorial supplies, food/kitchen supplies and equipment, arts and crafts materials, office supplies, and other supplies required for the maintenance of the facility.

5. Storage areas shall not be accessible by youth.

6. There shall be a location for secure storage of restraining devices and related security equipment. This equipment shall be readily accessible to authorized persons.

K. Housekeeping

1. There shall be a provision for providing housekeeping services for the facility's physical plant.

2. Cleaning and janitorial supplies shall be kept in a locked supply area. Supplies shall be issued and controlled by staff.

3. Unsupervised youth shall not have unrestricted access to areas where cleaning chemicals are stored.

4. Youth shall be directly supervised when cleaning chemicals and equipment are in use.

5. Chores shall be assigned in relation to the youth's age and abilities, and shall be planned so as not to interfere with regular school programs, study periods, recreation, or sleep.

6. The provider shall store and secure objects that can be used as weapons, including but not limited to knives, scissors, tools, and other instruments.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:

§7521. Emergency Preparedness

A. The provider shall have a written policy and procedure and practice which ensures the smooth operation, evacuation, if necessary, and steps to be taken during a security threat or disaster, which could impact the operations of the facility or the safety of youth, staff and/or visitors. Quick reference guides shall be located in a designated area for easy access. These procedures shall be reviewed and revised, as necessary. Procedures will incorporate responses to the following events:

1. disturbances and riots;
2. hostages;
3. bomb threats;
4. use of emergency medical services;
5. gas leaks, spills or attacks;
6. power failure;
7. escapes;
8. hurricanes, tornados, severe weather, flooding;
9. fires/smoke;
10. chemical leaks;
11. work stoppage; or
12. national security threat.

B. The emergency preparedness plan shall cover:

1. the identification of key personnel and their specific responsibilities during an emergency or disaster;

2. agreements with other agencies or departments;

3. transportation to pre-determined evacuation sites;

4. notification to families;

5. needs of youth with disabilities in cases of an emergency;

6. immediate release of a youth from locked areas in case of an emergency, with clearly delineated responsibilities for unlocking doors;

7. the evacuation of youth to safe or sheltered areas. Evacuation plans shall include procedures for addressing both planned and unplanned evacuations and to alternate locations both in close proximity of the facility as well as long distance evacuations;

8. ensuring access to medication and other necessary supplies or equipment.

C. Drills

1. The provider shall conduct fire drills once per month, one drill per shift every 90 days, at varying times of the day. Documentation of the fire drill shall include the following:

a. date of drill;
b. time of drill;
c. number of minutes to evacuate facility;
d. number of youth evacuated;
e. problems/concerns observed during the drill;
f. corrections if problems or concerns noted; and
g. signatures of staff present during drill.

2. The provider shall make every effort to ensure that staff and youth recognize the nature and importance of fire drills.

D. Alternate Power Source

1. An alternate power source policy shall be developed. The facility shall have an alternate source of electrical power that provides for the simultaneous operations of life safety systems including:

a. emergency lighting;

b. illuminated emergency exit lights and signs;

c. emergency audible communication systems and equipment;

d. fire detection alarms systems;

e. ventilation and smoke management systems;

f. refrigeration of medication;

g. medical devices; and

h. door locking devices.

2. Testing of Alternate Power Source

a. The alternate power source system shall be tested by automatic self-checks or manual checks to ensure the system is in working condition.

b. Any system malfunctions or maintenance needs that are identified during a test, or at any other time, shall require that a written maintenance request be immediately submitted to the appropriate personnel.

E. Emergency Plan for Unlocking Doors

1. The facility will adhere to Life Safety Code, Article 10-3141 and 10-3142.

2. The provider will ensure that reliable means are provided to permit the prompt release of youth confined in locked sections, spaces or rooms in the event of fire or other emergency.

3. Prompt release from secure areas shall be guaranteed on a 24 hour basis by sufficient personnel with ready access to keys.

F. Declared State of Emergency

1. Facilities under a declared state of emergency due to a natural disaster or other operational emergency of facilities housing youth from these affected facilities shall be exempt from capacity requirements as determined by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:

§7523. Safety Program

A. Policies and Procedures

1. The provider shall have policies and procedures and practices that ensure an on-going safety program is maintained.

B. General Safety Practices

1. Firearms and weapons shall be prohibited in secure areas. The provider shall require that visiting law enforcement personnel store their weapons either in provided lock-boxes or locked in their vehicles.

2. Staff shall accompany private contractors when in the presence of youth.

3. The provider shall ensure that a properly equipped first aid kit is available in each living unit.

C. Security

1. Doors and Perimeter Control

a. The provider shall maintain controlled access to the facility and internal doors at all times.

b. The provider shall designate entrances and exits for use by staff and the public. Designated perimeter entrances and doors will be secured to ensure that youth remain on facility grounds and to prevent unauthorized public access to the facility.

c. The provider shall record admissions and departures of visitors entering and exiting the facility to include the nature of business, arrival and departure times, and a brief notation of unusual circumstances surrounding any visit.

d. The provider shall control access to any vehicular entrance, when applicable.

e. The provider shall maintain security of all doors, unoccupied areas and storage rooms and accessibility of authorized persons to secured areas.

2. Youth Supervision and Movement

a. Supervision of movement shall include the following:

i. staff shall be aware of the location and the number of youth he/she is responsible for at all times;

ii. staff shall not leave his/her area of responsibility without first informing the supervisor;

iii. at least one escort must be the same sex and/or gender of youth during movement;

iv. staff shall conduct a periodic head count;

v. instruction shall be provided for staff escorting youth within and outside the facility;

vi. prohibition of the supervision of youth by youth; and

vii. shift assignments, including the use, location, and scope of assignment.

3. Searches

a. The provider shall have a written policy and procedure for conducting searches.

b. The provider shall conduct routine and unannounced searches/inspections of all areas of the physical plant and other areas deemed necessary by administration to ensure the facility remains secure at all times.

c. The provider shall conduct individual room searches when necessary with the least amount of disruption and with respect for youth's personal property.

d. Search of visitors shall be conducted when it is deemed necessary (as permitted by applicable law) to ensure the safety and security of the operation of the facility.

e. Searches of youth, except body cavity searches conducted by a qualified medical professional, shall be conducted by a facility staff member of the same gender as the youth and limited to the following conditions:

i. pat down/frisk search to prevent concealment of contraband and as necessary for facility security; and

ii. oral cavity search to prevent concealment of contraband, to ensure the proper administration of medication, and as necessary for facility security.

f. Youth may be required to surrender their clothing and submit to a strip search under the following guidelines:

i. only if there is reasonable suspicion to believe that youth are concealing contraband or it is necessary for facility security; and

ii only with supervisory approval.

g. Youth may be required to undergo body cavity search under the following guidelines:

i. only if there is reasonable suspicion to believe that youth are concealing contraband;

ii. only with the approval of the administrator or designee; and

iii. only if conducted by a qualified medical professional, in the presence of one other staff member of the same gender as the youth being searched.

h. The provider shall document justification for a body cavity search and the results of the search placed in the youth's file.

i. All searches, excluding pat down/frisk searches, shall be conducted with youth individually and in a private setting.

j. Staff shall not conduct searches of youth and/or youth's room as harassment or for the purpose of punishment or discipline.

4. Key Control

a. The provider shall ensure safe and secure inventory, accountability, distribution, storage, loss, transfer, and emergency availability of all keys. The provider shall develop and implement written policy addressing loss of keys.

5. Equipment and Tool Control

a. The provider shall ensure safe and secure inventory, accountability, distribution, storage of all tools and equipment. The provider shall develop and implement a written policy addressing loss of equipment and tools.

b. Equipment and tool use by youth shall be under the direct supervision of designated staff and according to state law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:

§7525. Data

A. Admission Data

1. The provider shall maintain accurate records on all new admissions, to include the following data fields:

a. demographics of youth admitted, aggregated by:

i. race;

ii. ethnicity;

iii. gender;

iv. date of birth;

v. parish of residence; and

vi. geographical zone determined by provider to include zip code, local law enforcement zones);

b. legal status of youth, aggregated by:

i. custody status of the youth; and

ii. adjudication status;

(a) pre-adjudicated-status/delinquent; and

(b) post-adjudicated-status/delinquent;

c. offenses of youth admitted, aggregated by:

i. specific charge(s);

ii. intake date; and

iii. release data;

d. youth participation in Families in Need of Services (FINS) program:

i. dates of participation in FINS (formal or informal); and/or

ii. referrals to FINS (formal or informal).

B. Operational Data

1. The provider shall maintain accurate records of operational events that include the following data fields:

a. youth released, aggregated by:

i. race;

ii. ethnicity;

iii. gender; and

iv. custody status;

b. average daily population of youth in the facility; and

c. average length of stay of youth in the facility.

C. Detention Screening Data

1. If a provider conducts a Risk Assessment Instrument (RAI) on new admissions, it shall maintain an accurate record of the following data fields:

a. demographics of youth screened, aggregated by:

i. race;

ii. ethnicity;

iii. gender;

iv. date of birth;

v. parish of residence; and

vi. geographical zone determined by provider to include zip code, local law enforcement zones;

b. offense of youth screened:

i. specific charge(s); and

ii. release date;

c. screen data:

i. date completed;

ii. overrides usage; and

iii. screening outcomes: release/alternative to detention/secure detention;

d. outcome data:

i. successful/unsuccessful; and

ii. recidivism/failure to appear (FTA).

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:

Family Impact Statement

1. What effect will this Rule have on the stability of the family? There will be no effect on the stability of the family.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? The promulgation of standards that shall be used to regulate juvenile detention facilities will provide a measure of protection that shall be benefit the health, safety, and welfare of youth that are placed in juvenile detention facilities.

3. What effect will this have on the functioning of the family? There will be no effect on the functioning of the family.

4. What effect will this have on family earnings and family budget? There will be no effect on family earnings and the family budget.

5. What effect will this have on the behavior and personal responsibility of children? This Rule will have no effect on the behavior and personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed Rule? No, this is strictly an agency function.

Small Business Statement

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered

and, where possible, utilized regulatory methods in the drafting of the proposed rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Public Comments

All interested persons may submit written comments through May 29, 2012, to Sammy Guillory, Deputy Assistant Secretary, Department of Children and Family Services, Division of Programs, Post Office Box 94065, Baton Rouge, LA, 70821-9065.

Public Hearing

A public hearing on the proposed rule will be held on May 29, 2012 at the Department of Children and Family Services, Iberville Building, 627 North Fourth Street, Seminar Room 1-129, Baton Rouge, LA, beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the DCFS Appeals Bureau at least seven working days in advance of the hearing. For assistance, call area code (225) 342-4120 (voice and TDD).

Ruth Johnson
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Juvenile Detention Facilities

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This rule proposes to adopt Louisiana Administrative Code (LAC) 67, Part V, Subpart 8, Chapter 75 as licensing standards for Juvenile Detention Facilities. The proposed rule change is in accordance with R.S. 15:1110 which requires the Department of Children and Family Services (DCFS) to license juvenile detention facilities. Therefore, this law requires the creation of licensing standards for juvenile detention facilities and such licensing standards be developed and promulgated by January 2012. In addition, R.S. 15:1110 mandates all juvenile detention facilities are to be licensed by January 1, 2013. The proposed rule will provide statewide licensing standards for the operation of juvenile detention facilities. These standards shall be used to regulate the physical environment, care, and supervision of youth placed in such facilities. This proposed rule will provide a measure to protect the health, safety, and welfare of youth that are placed in juvenile detention facilities through licensing standards.

The only cost associated with this proposed rule is the cost of publishing rulemaking that is estimated to be approximately $31,652 in State General Fund in FY 12. Rulemaking is a one-time cost that is routinely included in the department's annual operating budget.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This proposed rule allows DCFS to charge an application fee and annual licensing fee. Both fees will be enacted within the revised statutes passed during the 2012 Legislative Session. The proposed fees are as follows: (1) an initial application fee of $25.00; and (2) annual licensing fee based on the number of juveniles at the detention facility - $400 for 6 or fewer juveniles, $500 for 7-15 juveniles, and $600 for 16 or more juveniles. However, the department cannot determine the amount of revenue collected from application fees or annual licensing fees. The amount of revenue collection would depend on the number of juvenile detention facilities that will seek licensing and continue to annually renew their license. Presently, the department is aware of approximately 13 juvenile detention facilities statewide.

In addition, this proposed rule authorizes DCFS to assess civil penalties of $75 - $250 per day for operating a detention facility in violation of the law. The department cannot determine the amount of revenue collected as the result of assessing penalties on juvenile detention facilities that operate in violation of the law.

Implementation of this proposed rule change should have no estimated effect on the revenue collections of local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Since the propose rule will provide licensing standards that ensure a level of protection regarding health, safety and welfare, youth placed in juvenile detention facilities may benefit regarding their health, safety, and welfare while in the detention facility.

Juvenile detention facilities currently in operation must seek licensing from DCFS or close. This proposed rule allows DCFS to collect an application and licensing fee on juvenile detention facilities seeking licensing. Therefore, this proposed rule will increase the cost of operating a juvenile detention facility.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated impact on competition and employment as a result of this proposed rule.

Sammy Guillory	H. Gordon Monk
Deputy Assistant Secretary	Legislative Fiscal Officer
1204#078	Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Approval for Alternative Schools or Programs (LAC 28:CXV.2903)

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:* §2903. Approval For Alternative Schools or Programs. This policy revision, related to approval for alternative schools or programs, will ensure that LEAs comply with prescribed polices and standards for approval of alternative schools and programs. Revisions included: (1) establishing a deadline for alternative program approval by BESE (July 1 of a given year); (2) revising the deadline for the DOE to provide an annual report from alternative schools/programs to BESE (June to September); and (3) establishing monitoring for alternative schools and programs as needed. Revisions to Bulletin 111, Chapter 35 (Inclusion of Alternative Education Schools and Students in Accountability), defined and distinguished alternative schools and programs and established the category within the school accountability. These revisions required the establishment of a deadline for alternative program approval by BESE.

Title 28
EDUCATION
Part CXV. Bulletin 741—Louisiana Handbook for School Administrators
Chapter 29. Alternative Schools and Programs
§2903. Approval for Alternative Schools or Programs

A. Alternative schools or programs shall comply with prescribed policies and standards according to *Bulletin 131—Alternative Education Schools/Programs Standards* and for regular schools except for those deviations granted by BESE. Additional information can be obtained in the Louisiana Alternative Education Handbook found on the DOE website.

B. Approval to operate an alternative school or program shall be obtained from BESE. No alternative program shall be approved after July 1 of any given year.

1. An LEA choosing to implement a new alternative school or program shall submit an application to the Office of College and Career Readiness, Division of Dropout Prevention on or before the date prescribed by the DOE.

2. The DOE will provide BESE with an annual report from alternative schools or programs by September of each year.

C. An approved alternative school or program shall be described in the LEA's pupil progression plan.

D. Approved alternative programs and alternative schools shall be subject to monitoring by the DOE staff, as needed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:100.5.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1308 (June 2005), amended LR 35:2318 (November 2009), LR 37:2128 (July 2011), LR 38:

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.

Small Business Statement

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

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., May 20, 2012, to Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Catherine R. Pozniak
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 741—Louisiana Handbook for School Administrators—Approval for Alternative Schools or Programs

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The policy revisions to Bulletin 741: *Louisiana Handbook for School Administrators,* Chapter 29, Section §2903 will ensure that Local Education Agencies comply with prescribed policies and standards for approval of alternative education schools and programs. There is no estimated implementation cost or saving to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no costs or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Beth Scioneaux	H. Gordon Monk
Deputy Superintendent	Legislative Fiscal Officer
1204#022	Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Curriculum and Instruction (LAC 28:CXV.2318 and 2325)

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:* §2318. The College and Career Diploma and §2325. Advanced Placement and International Baccalaureate. These revisions add some advanced placement (AP) courses to the list of courses that can be taken for the fourth science and fourth social studies requirements for the LA Core 4 curriculum. Completion of the LA Core 4 curriculum is required for students who will be attending a four-year university in Louisiana. The revisions will allow these more rigorous courses to count for graduation requirements.

Title 28
EDUCATION
Part CXV. Bulletin 741—Louisiana Handbook for School Administrators
Chapter 23. Curriculum and Instruction
§2318. The College and Career Diploma

A. - C.3.c.ii. …

iii. 2 units from the following courses:

(a). Physical Science;
(b). Integrated Science;
(c). Physics I*;
(d). Physics of Technology I;
(e). Aerospace Science;
(f). Biology II*;
(g). Chemistry II*;
(h). Earth Science;
(i). Environmental Science;
(j). Physics II*;
(k). Physics of Technology II;
(l). Agriscience II;
(m). Anatomy and Physiology;
(n). AP Physics C: Electricity and Magnetism;
(o). AP Physics C: Mechanics;
(p). a locally initiated elective approved by BESE as a science substitute.

c.iv. - d.iii.(d). …

iv. 1 unit from the following:

(a). World History*;
(b). World Geography*;
(c). Western Civilization*; or
(d). AP European History;
(e). Law Studies;
(f). Psychology*;
(g). Sociology;
(h). Civics (second semester—1/2 credit);
(i). African American Studies; or
(j). Economics;
(k). AP Economics: Micro;
(l). AP Government and Politics: Comparative;
(m). AP Government and Politics: U.S.;
(n). AP Human Geography.

NOTE: Students may take two half credit courses for the fourth required social studies unit.

3.d.v. - 5.a.i.(c).(iv). …

(d). Social Studies—4 units:

(i). Civics* (1 unit) or 1/2 unit of Civics* and 1/2 unit of Free Enterprise;

NOTE: Students entering the ninth grade in 2011-2012 and beyond must have one unit of Civics with a section on Free Enterprise.

(ii). U.S. History*;
(iii). 1 unit from the following:
[a]. World History*;
[b]. World Geography*;
[c]. Western Civilization*;
[d]. AP European History;
(iv). 1 unit from the following:
[a]. World History*;
[b]. World Geography*;
[c]. Western Civilization;
[d]. AP European History;
[e]. Law Studies;
[f]. Psychology*;
[g]. Sociology;
[h]. African American Studies;
[i]. Economics;
[j]. AP Economics: Micro;
[k]. AP Government and Politics: Comparative;
[l]. AP Government and Politics: US; or
[m]. AP Human Geography.

5.a.i.(e). - 6.a.vi. …

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 36:1486 (July 2010), LR 37:547 (February 2011), LR 37:1128 (April 2011), LR 37:2129 (July 2011), LR 37:2132 (July 2011), LR 37:3193 (November 2011), LR 38:754, 761 (March 2012), LR 38:

§2325. Advanced Placement and International Baccalaureate

A. Each high school shall provide students access to at least one advanced placement (AP) or international baccalaureate (IB) course.

B. High school credit shall be granted to a student successfully completing an AP course or an IB course, regardless of his test score on the examination provided by the college board or on the IB exam.

1. Procedures established by the college board must be followed.

2. Courses listed in the program of studies may be designated as advanced placement courses on the student's transcript by following procedures established by the DOE.

a. The chart below lists the college board AP course titles, the IB course titles, and the corresponding Louisiana course titles for which these courses can be substituted.

College Board AP Course Title(s)	IB Course Title	Louisiana Course Title
Art History		AP Art History
Biology	Biology II IB	Biology II or Biology I
	Biology III IB	Biology Elective
Calculus AB	Math Methods II IB	Calculus
Calculus BC		AP Calculus BC
Chemistry		Chemistry II or Chemistry I
Computer Science A		AP Computer Science A
Economics: Macro	Economics IB	Economics
Economics: Micro		AP Economics: Micro
English Language and Composition	English III IB	English III
English Literature and Composition	English IV IB	English IV
Environmental Science	Environmental Systems IB	Environmental Science
European History		AP European History
French Language	French IV IB	French IV
	Film Study I IB	Visual Arts Elective
	Film Study II IB	Visual Arts Elective
French Literature	French V IB	French V
German Language		German IV

College Board AP Course Title(s)	IB Course Title	Louisiana Course Title
Government and Politics: Comparative		AP Government and Politics: Comparative
Government and Politics: United States		AP Government and Politics: United States (substitute for Civics)
Human Geography	World Geography IB	World Geography or AP Human Geography
	Informational Technology IB	Computer Systems/ Networking I
Latin Literature		Latin V
Latin: Vergil		Latin IV
	Math Methods I IB	Pre-Calculus
	Music I IB	Music Theory I
Music Theory	Music II IB	Music Theory II
Physics B	Physics I IB	Physics
Physics C: Electricity and Magnetism		AP Physics C: Electricity and Magnetism
Physics C: Mechanics		AP Physics C: Mechanics
	Physics II IB	Physics II
Psychology		Psychology
Spanish Language	Spanish IV IB	Spanish IV
Spanish Literature	Spanish V IB	Spanish V
Statistics		Probability and Statistics
Studio Art: 2-D Design	Art/Design IV IB	Art IV
Studio Art: 3-D Design		AP Studio Art 3-D Design
Studio Art: Drawing	Art Design III IB	Art III
	Theory of Knowledge I IB	Social Studies Elective
	Theory of Knowledge IB	Social Studies Elective
U.S. History	U.S. History IB	U.S. History
World History		World History
	World History IB	Western Civilization

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1294 (June 2005), amended LR 34:2032 (October 2008), LR 37:3198 (November 2011), LR 38:759 (March 2012), LR 38:

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.

Small Business Statement

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

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., May 20, 2012, to Nina A. Ford, State Board of Elementary and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Catherine R. Pozniak
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 741—Louisiana Handbook for School Administrators

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The revisions to Sections 2318 and 2325 of *Bulletin 741: Louisiana Handbook for School Administrators* add some Advanced Placement (AP) courses to the list of courses that can be taken for the fourth science and fourth social studies requirements for the LA Core 4 curriculum. Completion of the LA Core 4 curriculum is required for students who will be attending a four-year university in Louisiana. These changes will not result in an increase in costs or savings to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no costs or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1204#023

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act—Regulations for Students with Disabilities (LAC 28:XLIII.543)

Editor's Note: This Notice of Intent is being repromulgated to correct a typographical error. The original Notice of Intenet can be viewed on pages 852-854 of the March 20, 2012 edition of the *Louisiana Register*.

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:* Subpart 1. Regulations for Students with Disabilities, §543. Restrictions on the Use of Seclusion or Physical Restraint. The Rule was developed in response to Act 328 of the 2011 Regular Session of the Louisiana Legislature. The Act requires the state Board of Elementary and Secondary Education to approve rules related to the use of seclusion and restraint for students with exceptionalities in local education agencies in the state. The Rule includes definitions, how seclusion will be used and who will determine the use of seclusion. The Rule defines the attributes of a seclusion room. The use of physical restraint is described. Restrictions on the use of seclusion and physical restraint are included in the Rule. Notification of parents or legal guardians and the school district's director or supervisor of special education is required when seclusion or restraint is used. Documentation of the use of seclusion or restraint is necessary, and if a student is involved in five incidents in a school year, the student's individualized education plan team shall review and revise the plan if necessary. School districts are required to adopt written guidelines and procedures concerning reporting requirements, notification to parents and school officials and explanations or methods of physical restraint and school employee training. The local school district will report instances where seclusion or physical restraint are used to the Department of Education, which will maintain a database of all reported instances of seclusion and physical restraint.

Title 28
EDUCATION
Part XLIII. Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act
Subpart 1. Regulations for Students with Disabilities
Chapter 5. Procedural Safeguards
Subchapter C. Seclusion and Physical Restraint
§543. Restrictions on the Use of Seclusion or Physical Restraint

A. - E. ...

F. The parent or other legal guardian of a student who has been placed in seclusion or physically restrained shall be notified as soon as possible. The school shall document all efforts, including conversations, phone calls, electronic communications, and home visits, to notify the parent of a student who has been placed in seclusion or physically restrained.

1. The student's parent or other legal guardian shall also be notified in writing, within 24 hours, of each incident of seclusion or physical restraint. Such notice shall include the reason for such seclusion or physical restraint, the procedures used, the length of time of the student's seclusion or physical restraint, and the names and titles of any school employee involved.

G. - N. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.17:7(5)(b) and 17:416.21.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:

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? Lacks sufficient information to determine.
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? Lacks sufficient information to determine.
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? Lacks sufficient information to determine.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? Lacks sufficient information to determine.

Small Business Statement

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

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., April 19, 2012, to Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Catherine R. Pozniak
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act—Regulations for Students with Disabilities

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are minimal estimated costs to state or local governmental units. The rule does not mandate training. An existing database used by local education agencies and the Louisiana Department of Education will be configured with current resources to capture the data required for the rule. The costs associated with this rule may result in expenses to notify parents or legal guardians and local supervisors or directors of special education of the incidents. It is estimated that each school district in the state may expend an additional $100 per year to implement the rule. If seclusion rooms need to be constructed or renovated, the school district will have some costs. However, the rule does not require the use of seclusion rooms. It authorizes and stipulates the conditions of usage if the district employs the use of seclusion rooms.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no estimated effects on revenue collections of state or local governmental units. No revenue is collected as a result of this rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are minimal costs to directly affected persons, local school districts. There are no costs to non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment. School districts will most likely use existing personnel to implement the rule and many have staff who currently implement seclusion and restraint for students with exceptionalities.

Beth Scioneaux
Deputy Superintendent
1204#021

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Student Financial Assistance Commission
Office of Student Financial Assistance

Scholarship/Grant Programs—Nontraditional Students
(LAC 28:IV.1205)

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 amends the eligibility requirements for GO Grant recipients who are age 25 or older to delete the requirement that a student who is 25 years old or older must have a break in enrollment of at least two semesters to be eligible to receive a GO Grant. (SG12138NI)

Title 28
EDUCATION
Part IV. Student Financial Assistance—Higher Education Scholarship and Grant Programs
Chapter 12. Louisiana GO Grant
§1205. Application and Initial Eligibility

A. - B.3. …

4.a. be a first time freshman who entered college during the 2007-2008 academic year or later; or

b. have entered college as a first time freshman during the 2007-2008 academic year or later and have become eligible for a federal Pell Grant or a financial need grant after the freshman year; or

c. be age 25 or older.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3023 and R.S. 17:3046 et seq.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:2616 (December 2007), amended LR 34:238 (February 2008), LR 35:2349 (November 2009), LR 36:2853 (December 2010, LR 37:1389 (May 2011), LR 38:

Family Impact Statement

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

Small Business Statement

The proposed Rule will have no adverse impact on small businesses as described in R.S. 49:965.2 et seq.

Public Comments

Interested persons may submit written comments on the proposed changes (SG12138NI) until 4:30 p.m., May 10, 2012, 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—Nontraditional Students

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This rulemaking will change the methodology to determine eligibility to participate in the GO Grant Program by removing the requirements that a student age 25 or over who entered college before the 2007-2008 academic year must have a break in enrollment of at least 2 semesters immediately preceding the semester for which a student sought to receive GO Grant funding. Adoption of the proposed rule will not result in any additional costs to the state or local governments since program expenditures are limited to the amount appropriated.

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 rulemaking may cause a slight increase in the number of students eligible for a Go Grant, but it is also anticipated that any increase would be minimal since most students age 25 or older already met the enrollment break provision that is being deleted.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These changes by itself will have no impact on competition or employment.

George Badge Eldredge
General Counsel
1204#004

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Student Financial Assistance Commission
Office of Student Financial Assistance

Scholarship/Grant Programs—Summer Sessions
(LAC 28:IV.301)

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 amends the definition of "academic year (college") to include summer sessions. (SG12139NI)

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 this Chapter shall have the meanings ascribed to such words and terms in this Section. Where the masculine is used in these rules, it includes the feminine, and vice versa; where the singular is used, it includes the plural, and vice versa.

Academic Year (college)—

a. Through the 2007-2008 academic year, the two- and four-year college and university academic year begins with the fall term of the award year, includes the winter term, if applicable, and concludes with the completion of the spring term of the award year. Intersessions ending during the academic year are included in the academic year. The two- and four-year college and university academic year does not include summer sessions or intersessions that do not end during the academic year.

b. During the 2008-2009 academic year, the academic year begins with the fall term of the award year, includes the winter term, if applicable, and concludes with the completion of the intersession immediately following the spring term of the award year. Intersessions ending during the academic year, including the intersession immediately following the spring term, are included in the academic year. The two- and four-year college and university academic year does not include summer sessions or other intersessions.

c. During the 2009-2010 and 2010-2011 academic years, the academic year begins with the fall term of the award year and concludes with the completion of the spring term of the award year or the intersession immediately following the spring term if such intersession ends no later than June 15, whichever is later. Any intersession or term that begins and ends during the academic year is included. The two- and four-year college and university academic year does not include other intersessions or summer sessions. See the definition of *intersession* below.

d. Beginning with the 2011-2012 academic year and thereafter, the academic year begins with the fall term of the award year and concludes immediately before the next fall term commences. All intersessions and summer sessions are included.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 24:2237 (December 1998), LR 25:256 (February 1999), LR 25:654 (April 1999), LR 25:1458 and 1460 (August 1999), LR 25:1794 (October 1999), LR 26:65 (January 2000), LR 26:688 (April 2000), LR 26:1262 (June 2000), LR 26:1601 (August 2000), LR 26:1993, 1999 (September 2000), LR 26:2268 (October 2000), LR 26:2752 (December 2000), LR 27:36 (January 2001), LR 27:284 (March 2001), LR 27:1219 (August 2001), LR 27:1840 (November 2001), LR 27:1875 (November 2001), LR 28:45 (January 2002), LR 28:446 (March 2002), LR 28:772 (April 2002), LR 28:2330, 2331 (November 2002), LR 29:555 (April 2003), LR 29:879 (June 2003), LR 30:1159 (June 2004), LR 30:2015 (September 2004), LR 31:36 (January 2005), LR 31:3112 (December 2005), LR 33:86 (January 2007), LR 33:439 (March 2007), LR 33:1339 (July 2007), LR 33:2612 (December 2007), LR 34:234 (February 2008), LR 34:1388 (July 2008), LR 34:1884 (September 2008), LR 35:228 (February 2009), LR 35:1489 (August 2009), LR 35:1490 (August 2009), LR 36:311 (February 2010), LR 36:490 (March 2010), LR 36:2854 (December 2010), LR 37:1561 (June 2011), LR 37:1562 (June 2011), LR 38:

Family Impact Statement

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

Small Business Statement

The proposed Rule will have no adverse impact on small businesses as described in R.S. 49:965.2 et seq.

Public Comments

Interested persons may submit written comments on the proposed changes (SG12139NI) until 4:30 p.m., May 10, 2012, 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—Summer Sessions

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed change extends the TOPS academic year to include summer sessions and summer intersessions. Under this

change, credit hours earned during the summer term can be used to fulfill the TOPS annual 24 earned college credit hour requirement. This change does not require students to attend the summer term, nor does it require TOPS to pay for enrollment in a summer term. This change should increase TOPS Award retention resulting in an estimated TOPS increase of $3.5 million for FY 2012-13 and $5.9 million for FY 2013-14.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

State Colleges and Universities should see an increase in tuition revenues for the Summer Term.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed change should offer an incentive to students to attend summer sessions to retain their TOPS by earning more college credits in an academic year.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition and Employment will not be affected by the proposed change.

George Badge Eldredge	Evan Brasseaux
General Counsel	Staff Director
1204#006	Legislative Fiscal Office

NOTICE OF INTENT

Tuition Trust Authority
Office of Student Financial Assistance

START Saving Program—Interest Rates for 2010 and 2011
(LAC 28:VI.315)

The Louisiana Tuition Trust Authority announces its intention to amend its START Saving Program rules (R.S. 17:3091 et seq.).

The emergency rules add the interest rates for the 2010 and 2011 calendar years. (ST12137NI)

Title 28
EDUCATION
Part VI. Student Financial Assistance—Higher Education Savings
Chapter 3. Education Savings Account
§315. Miscellaneous Provisions

A. - B.22. …

23. For the year ending December 31, 2010, the Louisiana Education Tuition and Savings Fund earned an interest rate of 2.69 percent.

24. For the year ending December 31, 2010, the Savings Enhancement Fund earned an interest rate of 2.56 percent.

25. For the year ending December 31, 2011, the Louisiana Education Tuition and Savings Fund earned an interest rate of 2.53 percent.

26. For the year ending December 31, 2011, the Savings Enhancement Fund earned an interest rate of 2.47 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 35:1492 (August 2009), LR 36:492 (March 2010), LR 36:2030 (September 2010), LR 38:

Family Impact Statement

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

Small Business Statement

The proposed Rule will have no adverse impact on small businesses as described in R.S. 49:965.2 et seq.

Public Comments

Interested persons may submit written comments on the proposed changes (SG12137NI) until 4:30 p.m., June 11, 2012, 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—Interest Rates for2010 and 2011

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated implementation costs or savings to state or local governmental units. This proposed change places in rule the actual earnings realized by START account owners who invested in the Louisiana Principal Protection investment option and the actual earnings realized on the investment of Earnings Enhancements. This increase in START funds belongs to the account owner (it is not state general fund money), and no expenditure of state general funds is required.

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)

These changes adopt the actual interest rates for deposits made to the START Louisiana Principal Protection investment option and earnings enhancements for the years ending December 31, 2010 and December 31, 2011.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no anticipated effects on competition and employment resulting from these measures.

George Eldredge	Evan Brasseaux
General Counsel	Staff Director
1204#005	Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor
Board of Examiners of Certified Shorthand Reporters

Certification of Transcript (LAC 46:XXI.1103)

In accordance with the Administrative Procedures Act, R. S. 49:950 et seq. Notice is hereby given that the Louisiana Board of Examiners of Certified Shorthand Reporters proposes to adopt changes made to the court reporting procedures Rule.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XXI. Certified Shorthand Reporters
Chapter 11. Court Reporting Procedures
§1103. Certification of Transcript

A. Each certified court reporter shall attest to the accuracy of every transcript prepared by that reporter by dating, signing, and sealing a certification page containing substantially the following language.

> This certification is valid only for a transcript accompanied by my original signature and original required seal on this page.
>
> I, [reporter's name], Certified Court Reporter in and for the State of Louisiana, as the officer before whom this testimony was taken, do hereby certify that [name of person(s) to whom oath was administered], after having been duly sworn by me upon authority of R.S. 37:2554, did testify as hereinbefore set forth in the foregoing [number of] pages; that this testimony was reported by me in the [stenotype; stenomask; penwriter; electronic] reporting method, was prepared and transcribed by me or under my personal direction and supervision, and is a true and correct transcript to the best of my ability and understanding; that the transcript has been prepared in compliance with transcript format guidelines required by statute or by rules of the board, as described on the website of the board; that I have acted in compliance with the prohibition on contractual relationships, as defined by Louisiana Code of Civil Procedure Article 1434 and in rules and advisory opinions of the board; that I am not related to counsel or to the parties herein, nor am I otherwise interested in the outcome of this matter.

B. ...

C. Each certified official or deputy official court reporter shall attest to the accuracy of every transcript prepared by that reporter by dating, signing, and sealing a certification page containing substantially the following language.

> This certificate is valid only for a transcript accompanied by my original signature and original required seal on this page.
>
> I, [reporter's name]. Certified official or deputy official court digital reporter in and for the state of Louisiana, employed as an official or deputy official court reporter by the [court name] for the state of Louisiana, as the officer before whom this testimony was taken, do hereby certify that this testimony was reported by me in the digital [stenotype; stenomask; penwriter; digital] reporting method, was prepared and transcribed by me or under my direction and supervision, and is a true and correct transcript to the best of my ability and understanding; that the transcript has been prepared in compliance with transcript format guidelines required by statute or by rules of the board or the court, as identified on the website of the board; and that I am not related to counsel or to the parties herein nor am I otherwise interested in the outcome of this matter.

D. No certified official or deputy official court reporter shall execute the foregoing certification without having first reviewed and approved the accuracy of the transcript to which such certification is attached.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2554 and R.S. 37:2557.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Certified Shorthand Reporters, LR 21:21 (January 1995), amended LR 37:318 (January 2011), LR 38:

Family Impact Statement

The proposed Rule changes have no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Public Comments

Interested persons may submit written comments on the proposed changes until 4 p.m., May 10, 2012, to Vincent P. Borrello, Jr., Chairman of the Education Committee of the Louisiana Board of Examiners of Certified Shorthand Reporters, P.O. Box 1840, Walker, LA 70785-1840.

Public Hearing

A public hearing will be held on May 28, 2012, from 2 p.m.-4 p.m at Orleans Civil District Court, 2700 Tulane Avenue, New Orleans, LA. Interested persons are invited to attend and submit oral comments on the proposed amendments.

Vincent P. Borrello, Jr.
Education Committee Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Certification of Transcript

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will not result in any implementation costs (or savings) to state or local governmental units other than those one-time costs directly associated with the publication and dissemination of this rule. This proposed rule change consists of updating certification pages which ensure that all court reporters are in compliance with the preparation and certification of transcripts.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units as a result of the proposed rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups associated with the proposed rule change.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition or employment as a result of this rule change..

Vincent P. Borrello, Jr.	Evan Brasseaux
Education Committee Chairman	Staff Director
1204#029	Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor
Board of Home Inspectors

Education, Standards of Practice, Rehearing Procedure
(LAC 46:XL.119, 120, 121, 303, 305,
309, 313, 315, 319, 321, 325, and 713)

The Board of Home Inspectors proposes to amend LAC 46:XL.119, 120, 121, 303, 305, 309, 313, 315, 319, 321, 325, and 713 in accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., and the Louisiana Home Inspector Licensing Law, R.S. 37:1471 et seq. The text is being amended and adopted to revise definitions and standards of practice, to better define the requirements of education providers, and to increase the annual number of continuing education hours required. The text of §120.A has been moved and designated as §120.J. This Section has also been revised.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XL. Home Inspectors

Chapter 1. General Rules

§119. Education/Training and Testing; Initial Licensure

A. Initial applicants for licensure must pass a LSBHI approved licensing examination covering home inspection methods and techniques, the standards of practice, and code of ethics.

B. …

C. The 130 hours of home inspection instruction and training shall consist of the following:

1. 90 hours of home inspection course work approved by the board, taught by a certified pre-licensing education provider as set forth in §120;

2. 30 hours of in-field platform training from a certified infield trainer;

3. - 4. …

D.1. The 90 hours of course work as set forth in §119.C.1 above, may only include a combination of any of the following methods of instruction:

a. …

b. DVD, CD ROM, videotape, streaming or other electronic means of video lecture, with a certified home inspector instructor available during classroom hours for questioning and discussion;

c. - d. ...

2. No credit towards the 90 hours of course work shall be given for:

a. - d. …

3. Before the trainee can be certified as having completed the required 90 hours of course work, the trainee must have:

a. attended and completed the 90 hours of course work within 180 days of commencement;

b. passed, with a grade of 70 percent or higher, the final examination and all periodic examinations given by the educational provider; and

c. …

E. Before registering for the 90 hours of course work with a certified pre-licensing educational provider, the trainee must first apply with the board. After enrolling with a certified educational provider, the trainee must provide the board with the name of the provider and the commencement date of instruction.

F. Prior to admission to an infield training program, the trainee shall complete the required 90 hours of course work and pass the licensing exam described in §119.A.

G. Infield training shall consist of platform training and live training.

1. Platform training shall consist of attending 30 hours of hands-on training with a certified infield trainer at a residential structure or using residential components or equipment. All systems of a residential structure shall be examined and inspected during platform training. The applicant shall be given one credit hour for each hour of platform training attended. No more than four applicants may be trained at one time during platform training. Platform training shall not be conducted during a live home inspection where an inspection fee is paid and an inspection report is provided to a client.

2. …

H. Upon registering trainees for a 90 hour course, all certified pre-licensing education providers shall:

1. - 2. …

3. keep records of attendance of each trainee enrolled in the pre-licensing course to confirm satisfactory completion of the required 90 hours of instruction;

4. provide the trainee with an education provider evaluation form approved by the board prior to final testing and completion of the required 90 hours of instruction;

5. …

6. provide a copy of certificates of completion to the board of only those trainees who have successfully completed the full 90 hours of instruction.

I. Certified infield trainers shall:

1. - 2. …

3. issue to the trainee a certificate of completion of platform training and/or live training; and

I.4. - K. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475 and R.S. 37:1485-1487.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2741 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:1687 (August 2004), LR 35:1519 (August 2009), LR 36:2858 (December 2010), LR 38:

§120. Education Providers; Qualifications

A.1. A *certified education provider* is defined as any individual or entity certified by the Board to provide home inspector pre-license education, in-field training and/or continuing education courses.

2. A *pre-licensing education* provider is defined as any individual or entity certified by the board to provide pre-licensing education.

3. A *continuing education provider* is defined as any individual or entity certified by the board to provide post license continuing education.

4. An *infield trainer* is defined as any individual certified by the board to provide home inspector infield training.

5. A *home inspector instructor* is defined as any individual certified by the board to provide home inspector instruction for an education provider.

6. A *guest lecturer* is defined as an individual licensed, certified and/or certified in a construction related field, who provides pre-license and/or continuing education presentations for an education provider.

B.1. Certifications issued under this Chapter shall be classified in the following categories:

a. pre-licensing education providers;

b. continuing education providers; and

c. infield trainers.

2. Any individual or entity desiring to conduct business in this state as an education provider, continuing education provider or infield trainer shall file an application for certification with the board.

3. The application shall be in such form and detail as prescribed by the board.

4. The board shall approve or deny an application within 90 calendar days after it is received. Incomplete applications or a request from the board for additional information may be cause for delay beyond 90 calendar days.

5. The board may deny an application of an education provider or its director for certification for any of the following reasons.

a. The applicant has been convicted of forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, or theft, or has been convicted of a felony or crime involving moral turpitude in any court of competent jurisdiction.

b. An application contains a false statement of material fact.

c. A professional license or certification held by an applicant or its director has been revoked.

6. The board shall issue a certificate and assign a certificate number to approved applicants that shall be included on all forms, documents, reports, and/or correspondence filed with the board.

C. Education provider certificates shall be renewed by December 31 of each year.

1. Failure to renew a certificate by December 31 shall result in the automatic suspension of all courses approved under the certificate. The board shall not accept any pre-license education, in-field training or continuing education courses for credit, if the courses were offered and/or conducted after the expiration of the certificate.

2. Applications for delinquent renewal of a certificate shall not be accepted by the board after January 31. Failure to renew an expired certificate during the prescribed delinquent period shall result in the forfeiture of renewal rights. Any education provider that becomes ineligible to renew a certificate shall apply as an initial applicant.

D.1. All education providers shall designate a director, whose duty it shall be to ensure that the operations of the education facility and all training locations adhere to the requirements of the Louisiana Home Inspector License Law and the rules and regulations of the board. The director shall be held responsible to the board for any violations thereof.

2. Directors shall coordinate and disseminate information pertaining to amendments in the license law, rules and regulations, or policies and procedures of the board to all staff, instructors, and employees of the education provider.

E.1. The board or its representative may inspect any educational facility used by an education provider at any time during regular business hours.

2. Education providers shall be subject to periodic audits and review, as determined by the board, to ensure that courses and field training provided are conducted in accordance with the provisions set forth in this Chapter and R.S. 37:1471, et seq. This may include the observation and evaluation of classroom activities, course content, instructor proficiency, and/or the audit of reporting/attendance records.

3. If the education provider is found deficient in any part of this Section, the board shall prepare a report specifying the areas of deficiency and deliver it to the education provider within 30 days of completion of the report.

4. Any education provider that receives a report of deficiencies shall correct the deficiencies by the date designated by the board and shall submit a report to the Board that outlines the corrective action.

F.1. Education providers shall maintain accurate and properly indexed records on all students for at least three years after course completion and shall produce those records for inspection upon request of the board. Electronic records shall be maintained in a readily available format that does not prohibit, delay, or otherwise impede inspection.

2. Education providers shall maintain the following records on each student:

a. complete name and address;

b. total educational hours taken and course title;

c. dates of attendance;

d. test scores indications; and

e. a copy of the student contract.

3. Education providers shall provide any student who requests it with a duplicate copy of his/her course completion records.

G.1. Each pre-licensing education provider shall enter into a written student contract with each student that shall clearly set forth the tuition and fees charged by the provider for the specific course of instruction and the provider's refund policy.

2. A copy of the contract, signed by the director of the education provider, shall be provided to the student immediately after both parties sign the contract.

3. Any additional fees charged for supplies, materials, or required books shall be clearly itemized in the contract and such supplies, materials, or books shall become the property of the student upon payment.

4. All other educational providers shall provide the student with documentation, either electronically or otherwise, which clearly sets forth the title, date, location and cost of the course and the number of continuing education or infield training hours that are approved by the board for the course.

H. The board shall be notified within 30 calendar days of any change in the address and/or telephone number of education provider and/or director of any education provider.

I.1. Advertising by certified education providers shall be clear, concise and accurate and shall contain the certificate number of the provider. All advertisements shall be in the name of the education provider as certified by the board.

Advertising by education providers shall not be false or misleading.

2. The board may require an education provider to furnish proof of any advertising claims. The board may order the retraction of advertising that violates the provisions of this Section. Such retractions shall be published in the same manner as the original claim and be paid for by the education provider.

3. Education providers shall not guarantee the passing of the home inspector licensing examination.

J.1. In order to qualify as a pre-licensing education provider, an applicant shall:

a. pay the pre-licensing education provider fee;

b. provide a syllabus and a course list to the board;

c. agree, in writing, to defend, indemnify and hold the board harmless against any claim or suit alleging negligent or intentional acts or omissions of the education provider in its training, or otherwise;

d. remain current on all renewal and other fees;

e. employ only certified home inspector instructors; and

f. be approved by the board.

2. In order to qualify as a certified home inspector instructor of a pre-licensing education provider, a person must:

a. have been actively engaged in the performance of home inspections for the three years prior to certification;

b. have been an actively engaged, Louisiana licensed home inspector for the three years prior to certification;

c. provide evidence that he has performed at least 500 home inspections; or

d. be licensed in the field of the subject matter of the particular course instructed.

3. In order to qualify as an infield trainer, an applicant shall:

a. be a LSBHI licensed home inspector for at least three years;

b. pay the required infield trainer fee(s);

c. be current on all other fees;

d. be current on all continuing education hours;

e. agree, in writing, to defend, indemnify and hold the board harmless against any claim or suit alleging negligent or intentional acts or omissions of the education provider in its training, or otherwise; and

f. be approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475 and R.S. 37:1485-1487.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home inspectors, LR 30:1687 (August 2004), amended by the Office of the Governor, Board of Home Inspectors, LR 31:2011 (August 2005), LR 35:1520 (August 2009), LR 36:2859 (December 2010), LR 38:

§121. Continuing Education; Instructors

A. As a condition of license renewal, a LHI must certify completion of at least 24 hours of continuing education during the previous licensing period in courses approved by the board. No more than 10 hours of continuing education credit may be carried over into the following year. Board-approved continuing education instructors may be given continuing education credit for course preparation and other activities as set forth in Paragraph F.3, below.

B. Continuing Education Courses

1. - 3. …

4. In order to receive credit for completing a continuing education course, a licensee must attend at least 90 percent of the scheduled hours of the course, regardless of the length of the course.

5. - 9. …

10. Continuing education credit cannot be received by attending classes designated for pre-license education instruction as set forth in §119.C.1.

11. Continuing education courses must be taught by continuing education providers who meet the criteria set forth in §121.F.1. Qualified guest lecturers may teach courses on behalf of continuing education provider instructors. Last minute guest lecturers may be substituted upon approval by the chief operating officer. The continuing education provider shall be responsible for confirming the qualifications of the guest lecturer.

C.1. The board may approve online, streaming video, and other means of electronic delivery of continuing education courses. Courses taught by online education providers must be certified by the Distance Education Training Council, the International Distance Education Certification Center or the Louisiana Board of Regents and such–certification must be submitted with the education provider's application.

C.2. - D.2. …

E. It is the duty of every licensee to provide proof of compliance with continuing education requirements on a timely basis. In order to receive credit from the board for completion of continuing education courses under this Section, proof of compliance must be submitted on forms approved by the board and prepared by board-approved continuing education providers.

F.1. In order to qualify as a continuing education provider instructor, an applicant shall:

a. …

b. be a licensed home inspector from a state requiring licensure for at least three years;

c. provide evidence that he has completed 300 inspections;

d. - e. …

2. Professional trade organizations, accredited technical schools and colleges and certain industry companies may be approved by the board on a case by case basis as a continuing education provider without meeting the requirements set forth in Paragraph F.1 above. However, these entities must submit a completed continuing education instructor application, pay the requisite fee and meet all other requirements set forth in these rules.

3. …

4.a. All continuing education providers must submit the following to the chief operating officer for approval at least 10 days prior to instruction:

i. a syllabus of any course to be taught by that continuing education provider;

ii. the requested number of continuing education credit hours for each course;

iii. the name and qualifications of the guest lecturer teaching on his or its behalf, if applicable; and

iv. the name and qualifications of any guest lecturer teaching on his behalf or, in the event a last minute guest lecturer is substituted, the name and qualifications of

the guest lecturer are to be submitted within 10 days after the course is given.

b. The chief operating officer, with direction from the continuing education committee chairman, will determine: the number of hours credit to be given for the continuing education course submitted; whether the course is within the scope of the standards of practice; whether a guest lecturer is approved; and whether the course is approved. Once approved, the provider may teach any approved courses at his discretion.

5. All continuing education providers shall provide sign-in sheets, whether electronic or otherwise, for LHIs to complete upon entering a class, joining a streaming lecture or participating online. At the end of each class, the instructor shall provide the LHI with a certificate of completion. Sign in sheets and certificates of completion shall include the date and time of the course, the number of hours of credit assigned to each course by the board and the name of the instructor teaching the course or courses. The continuing education provider shall forward all sign-in sheets to the board immediately upon request by the board.

6. The names and contact information for all approved continuing education providers will be posted on the board's official website. At the request of a provider, the board will also post announcements of continuing education classes on its website upon written notice by the provider 30 days prior to the class.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1477, and R.S. 37:1479-1480.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2742 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 36:2860 (December 2010), LR 37:2405 (August 2011), LR 38:

Chapter 3. Standards of Practice

§303. Definitions

A. The definitions in §109 of this Part are incorporated into this Chapter by reference. The following definitions apply to this Chapter.

* * *

Roof Drainage Components—gutters, downspouts, leaders, splash blocks, scuppers, and similar components used to carry water off a roof and away from a building.

* * *

Significantly Deficient—a condition that, in the inspector's professional opinion, adversely and materially affects the performance of a system or component.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2745 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:1689 (August 2004), LR 36:2861 (December 2010), LR 38:

§305. Purpose and Scope

A. …

B. Home inspectors shall:

1. - 2. …

3. submit a written report to the client within five days of the inspection which shall:

a. - b. …

c. state any systems or components so inspected that, in the professional opinion of the inspector, are significantly deficient, unsafe or non-functioning; and

B.3.d. - C.4. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2746 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:1690 (August 2004), LR 38:

§309. General Exclusions

A. - A.11. …

B. Home inspectors are not required to:

1. - 5. …

6. disturb insulation, move personal items, panels, furniture, equipment, plant life, or other items that may obstruct access or visibility;

7. - 13. …

14. dismantle any system or component, except as specifically required by these Standards of Practice;

15. disturb soil, snow ice, plant life, debris or personal items that may obstruct access or visibility; or

16. perform air or water intrusion tests or other tests upon roofs, windows, doors or other components of the structure to determine its resistance to air or water penetration.

C. - C.6. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475 and R.S. 37:1478.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2746 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:1690 (August 2004), LR 36:2862 (December 2010), LR 38:

§313. Exterior System

A. The home inspector shall inspect:

1. …

2. all doors, including garage doors and storm doors;

3. all readily accessible windows;

A.4. - C.12. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2747 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:1691 (August 2004), LR 36:2862 (December 2010), LR 38:

§315. Roofing System

A. - B.2. ...

C. The home inspector is not required to:

1. walk on the roofing;

2. inspect interiors of flues or chimneys which are not readily accessible;

3. inspect attached accessories including but not limited to solar systems, antennae, and lightening arrestors; or

4. disturb or lift roofing materials, jacks or flashing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home inspectors, LR 26:2747 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:1691 (August 2004), LR 36:2862 (December 2010), LR 38:

§319. Electrical System

A. The home inspector shall inspect:

1. - 4. …

5. the polarity and grounding of all receptacles tested; and

6. test ground fault circuit interrupters and arc fault circuit interrupters, unless, in the opinion of the inspector, such testing is likely to cause damage to any installed items or components of the home or interrupt service to an electrical device or equipment located in or around the home.

B. - E.5. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home inspectors, LR 26:2748 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:1691 (August 2004), LR 36:2863 (December 2010), LR 38:

§321. Air Conditioning and Heating System

A. - E.4.h. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home inspectors, LR 26:2748 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:1692 (August 2004), LR 36:2863 (December 2010), repromulgated LR 38:

§325. Interior System

A. The home inspector shall inspect:

1. - 3. …

4. all doors; and

5. all readily accessible windows.

B. - B.12. …

C. The home inspector is not required to inspect:

1. …

2. carpeting;

3. draperies, blinds, or other window treatments; or

4. interior recreational facilities.

5. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2749 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:1692 (August 2004), LR 37:2406 (August 2011), LR 38:

Chapter 7. Disciplinary Actions

§713. Hearing Procedure; Decision; Notice; Effective Date; Rehearing

A. - D. ….

E. A board decision or order may be reconsidered by the board at the next board meeting on its own motion, or on motion by a party of record, for good cause shown pursuant to a written request filed at the board's office within 15 days following the decision date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475, R.S. 37:1485-1487.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home inspectors, LR 26:2751 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:1695 (August 2004), LR 38:

Family Impact Statement

The proposed amendments and additions have no know impact on family formation, stability and autonomy as described in R.S. 49:972.

Public Comments

Interested parties may submit written comments to Morgan Spinosa, Chief Operating Officer, Louisiana State Board of Home Inspectors, 4664 Jamestown, Baton Rouge, LA, 70898-4868 or by facsimile to (225) 248-1335. Comments will be accepted through the close of business May 10, 2012.

Public Hearing

If it becomes necessary to convene a public hearing to receive comments in accordance with the Administrative Procedures Act, the hearing will be held on May 25, 2012 at 10 a.m. at the office of the State Board of Home Inspectors, 4664 Jamestown, Suite 220, Baton Rouge, LA.

Albert J. Nicaud
Board Attorney

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Education, Standards of Practice, Rehearing Procedure

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The Board expects minimal costs associated with the publication of the Amendments and adopted rules. Licensees and the interested public will be informed of these rule changes via the Board's regular newsletter, direct mailings, website postings or other means of communication at a minimal cost.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units as no increase in fees will result from the amendments.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be an increase in costs to licensees as a result of the proposed administrative rules. The proposed administrative rules provide that all licensees complete an additional four hours of continuing education which will result in higher costs to be paid by licensees to continuing education providers.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed administrative rule could minimally increase competition among the various continuing educational providers. This competition may result in lessening the increase in costs to the licensee as set forth above.

Albert Nicaud
Board Attorney
1204#031

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor
Commission on Law Enforcement and Administration of Criminal Justice

Formula for Distribution of Federal Funds
(LAC 22:III.5701-5703)

In accordance with the provision of R.S. 15:1204, R.S. 14:1207, and R.S. 49:950 et seq., the Administrative Procedure Act, the Commission on Law Enforcement and Administration of Criminal Justice hereby gives notice of its intent to promulgate rules and regulations relative to the formula for distribution of federal grant funds.

Title 22
CORRECTIONS, CRIMINAL JUSTICE, AND LAW ENFORCEMENT
Part III. Commission on Law Enforcement and Administration of Criminal Justice
Subpart 5. Grant Application or Subgrants Utilizing Federal, State or Self-Generated Funds
Chapter 57. Formula for Distribution of Federal Grant Funds

§5701. Adoption

A. The proposed distribution formula for federal grant funds was adopted by the commission at its meeting on March 1, 2012.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1201, et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 26:1018 (May 2000), amended LR 38:

§5702. Introduction

A. The commission distributes federal grant funds to the state's local law enforcement agencies through law enforcement planning districts via a funding formula initially devised in 1977, and subsequently modified as necessary by the Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1201, et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 26:1018 (May 2000), amended LR 38:

§5703. Distribution Formula

A. - A.3.…

B. Given the changes in the state's crime, popul ation, and manpower figures since 1977, the commission collected data on the aforementioned variables through the year 2011, to include the most recent year for which data was available. The distribution formula devised for the years 2012 through 2021 modifies the variable base and maintains the rural and urban adjustments to reflect existing conditions within each planning district.

C. The proposed distribution formula percentage for each Law Enforcement Planning District for the years 2012 through 2021, as based on the most recent data, is as follows.

Law Enforcement Planning District	Formula Distribution Percentage
Northwest	11.07
North Delta	10.77
Red River	9.74
Evangeline	10.65
Capital	15.95
Southwest	10.44
Metropolitan	15.48
Orleans	15.89

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1201 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 26:1018 (May 2000), amended LR 38:

Family Impact Statement

There will be no impact on family earnings or the family budget as set forth in R.S. 49.972.

Public Comments

Interested persons may submit written comments on this proposed rule no later than May 10, 2012 at 5 p.m. to Bob Wertz, Louisiana Commission on Law Enforcement, P.O. Box 3133, Baton Rouge, LA 70821.

Joseph M. Watson
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Formula for Distribution of Federal Funds

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no implementation costs to state or local governmental units for the proposed Rule. The programs affected are already in existence. The proposed Rule revises the formula for the distribution of federal grant funds to the state's eight law enforcement planning districts. The eight law enforcement districts received a total of $16,995,321 in federal grants in federal fiscal year 2010-2011.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The impact of the proposed Rule on state or local governmental units revenue collections is indeterminable. The availability and amount of the federal funds affected by the proposed Rule is unknown at this time. The federal appropriation, if any, will be effective in October, 2012.

The proposed Rule will not increase revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no costs associated with the proposed Rule that directly affect persons or non-governmental groups. The economic benefits of the proposed Rule directly affecting persons or non-governmental groups are indeterminable because the availability and amount of the federal funds affected by the proposed Rule are unknown at this time.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The effect on competition and employment is indeterminable because the availability and amount of the federal funds affected by the proposed rule is unknown at this time.

Joseph A. Watson	Evan Brasseaux
Executive Director	Staff Director
1204#045	Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor
Division of Administration
Property Assistance Agency

Luxury Vehicles (LAC 34:XI.101 and 103)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and with R.S. 39:361-363 and R.S. 39:1761-1771, the Office of the Governor, Division of Administration, Louisiana Property Assistance Agency hereby gives notice of its intent to amend §101, Definitions, and §103, Functions of the Fleet Management Program, to clarify the definition of *luxury vehicles*.

Title 34
GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY CONTROL
Part XI. Fleet Management
Chapter 1. General Provisions
§101. Program Definition

A. - D. …

* * *

Luxury Vehicles—those vehicles equipped with non-essential, indulgent rather than necessity type options, which exceed state vehicle contract award, and enhance comfort and/or prestige.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:361-363 and R.S. 39:1761-1771.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 13:15 (January 1987), amended by the Office of the Governor, Division of Administration, Property Assistance Agency, LR 38:

§103. Functions of the Fleet Management Program

A. - A.1.b.ii. …

iii. the annual evaluation of specifications for the purchase of fleet vehicles. The state fleet manager shall recommend to the director of state purchasing changes in the specifications for the purchase of new vehicles based on the previous year's experience with fleet operations. The Office of State Purchasing shall then develop said specifications and establish procedures for the purchase of new vehicles by state agencies. These specifications shall exclude luxury automobiles;

c. non-essential options may not be added by the agency to the automobile after the purchase or lease of said motor vehicle except at the employees own expense and shall become the property of the state. The commissioner of administration shall authorize the purchase of any luxury or full-size motor vehicle for personal assignment by a statewide elected official other than the governor and lieutenant governor, such official shall first submit the request to the Joint Legislative Committee on the Budget for approval, as provided by R.S. 39:362.1.

2. - 5. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:361-363 and R. S. 39:1761-1771.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 13:15 (January 1987), amended by the Office of the Governor, Division of Administration, Property Assistance Agency, LR 13:742 (December 1987), amended LR 23:300 (March 1997), LR 38:

Family Impact Statement

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

Small Business Impact Statement

The proposed Rule will have no adverse impact on small businesses as described in R.S. 49:965.2 et seq.

Public Comments

Interested persons may submit written comments on the proposed changes until 4:30 p.m., May 10, 2012, to Steve Bice, Assistant Director, Louisiana Property Assistance Agency, P.O. Box 94095, Baton Rouge, LA 70804-9095.

Denise Lea
Assistant Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Luxury Vehicles

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There is no anticipated impact on state or local governmental expenditures as a result of the proposed Rule change. The proposed Rule change updates the definition of luxury vehicle. In addition, the proposed Rule change eliminates outdated vehicle options that were once considered luxury and are now standard in all vehicles.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated impact on state or local governmental revenues as a result of the proposed Rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is no anticipated impact to directly affected persons or non-governmental groups as a result of the proposed Rule change.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated impact upon competition and employment as a result of the proposed Rule change.

Denise Lea	Evan Brasseaux
Assistant Commissioner	Staff Director
1204#086	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Board of Optometry Examiners

Licensing—Dispensation of Medication
(LAC 46:LI.301, 503 and 603)

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, intends to amend Title 46, Part LI by adopting the following proposed amendments to the rules set forth below.

The Louisiana State Board of Optometry Examiners proposes to amend Chapters 3, 5 and 6 of Title 46, Part LI of the Louisiana Administrative Code by adoption of the following proposed amended rules.

A preamble which explains the basis and rationale for the intended action, and summarizing the information and data supporting the intended action has not been prepared. A description of the subjects and issues involved is as follows:

- Section 301.A.2 strikes: "four" and adds "two" to provide that "no more than 'two' hours of CPR continuing education may be applied to the continuing education requirement in any two calendar year periods;"
- Section 503 adds a new Paragraph 503.G.3 to provide certain restrictions on the use of the term "board certified" in conjunction with the title, name, business or practice of an optometrist;
- Section 603 adds a new definition for the term "student extern;"
- Section 503 adds a new Subsection 503.I to provide for optional participation by an optometrist in student extern program;
- Section 503.G.2.b.ii adds language to clarify that an optometrist must be certified in cardiopulmonary resuscitation only at the time of original application for certification to treat pathology and use and prescribe therapeutic pharmaceutical agents;
- Section 503.G.2.b.iii adds language to clarify that an optometrist must possess unexpired child and adult automatic epinephrine injector kits only at the time of original application for certification to treat pathology and use and prescribe therapeutic pharmaceutical agents.

The proposed rules are adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LI. Optometrists

Chapter 3. License
§301. Continuing Education

A. Each licensed optometrist shall comply with the following continuing education requirements.

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 two 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:

2.a. - 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 35:1111 (June 2009), LR 38:

Chapter 5. Practicing Optometry
§503. License to Practice Optometry

A. - F.5. ...

G. Certification to Use Diagnostic Drugs to Treat Ocular Pathology. An optometrist may be certified to use diagnostic and therapeutic pharmaceutical agents and to diagnose and treat ocular pathology. In order to obtain such certification, an optometrist shall comply with the following requirements.

1. - 1.c.…

2. Certification to Treat Pathology and to Use and Prescribe Therapeutic Pharmaceutical Agents

a. …

* * *

b. Requirements for Certification. In order to be approved as an optometrist authorized to treat pathology and use and prescribe therapeutic pharmaceutical agents, an optometrist shall present to the secretary of the Louisiana State Board of Optometry Examiners for approval by the board, the following:

i. …

ii. certification from a source acceptable to the board evidencing current qualification to perform cardiopulmonary resuscitation (CPR) or basic life support, which certification shall be current as of the time of application to the board for certification to treat pathology and use and prescribe therapeutic pharmaceutical agents;

iii. a signed statement from the applicant stating that he or she possesses child and adult automatic epinephrine injector kits in every office location in which the applicant practices, which injector kits shall be operable and unexpired as of the date of application to the board for

certification to treat pathology and use and prescribe therapeutic pharmaceutical agents.

iv. - v. …

3. Declaration of Certification. An optometrist shall not use the term "board certified" or "Board Certified" in connection with their title, name, business or practice except to reference certification by organizations approved by the Louisiana State Board of Optometry Examiners.

H. - H.4. …

I. Participation in Student Extern Program. An optometrist may participate in student extern programs in accordance with rules and regulations promulgated from time to time by the board.

1. The level of responsibility assigned to a student extern shall be at the discretion of the supervising optometrist who shall be ultimately responsible for the duties, actions or work performed by such student extern.

2. The duties, actions and work performed by a student extern in accordance with the provisions of this §503 and §603 shall not be considered the practice of optometry without a license as set forth in R.S. 37:1061(14).

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 34:873 (May 2008), LR 38:

Chapter 6. Dispensation of Medication

§603. Definitions

A. …

* * *

Student Extern—a student extern is a person who is a regular student at an optometry school or program approved by the board pursuant to §503 who is performing duties or actions assigned by his or her instructors or as part of his or her curriculum, which must be under the direct supervision of an optometrist licensed by the board as defined in this Rule.

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 32:634 (April 2006), amended LR 38:

Family Impact Statement

The proposed rules have no known fiscal or economic impact and no known impact on family functioning stability, or autonomy as described in R.S. 49:972.

Public Comments

Interested persons may submit written data, views, arguments, information or comments on the proposed Rules until 5 p.m., May 20, 2012, to Dr. James D. Sandefur, O.D., Louisiana State Board of Optometry Examiners, 115-B North Thirteenth Street, Oakdale, Louisiana 71463. He is responsible for responding to inquiries regarding the proposed rules.

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Licensing; Dispensation of Medication

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 12, 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 in FY 12 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 will be limited in the number of hours of CPR training that can be applied toward their continuing education requirements. However, this is not anticipated to have any impact on costs or savings to optometrists as the total number of credits required for continuing education has not changed. In addition, optometrists applying to the board for certification to treat pathology and to use and prescribe therapeutic pharmaceutical agents must now ensure that their cardiopulmonary resuscitation (CPR) certification and their child and adult automatic epinephrine injector kits are current and unexpired. If expired, this may result in an increase in costs associated with buying a new epinephrine kit or completing CPR recertification.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

J. Graves Theus, Jr.	H. Gordon Monk
Attorney	Legislative Fiscal Officer
1204#076	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Board of Veterinary Medicine

Licensure Procedures, Continuing Veterinary Education, Fees (LAC 46:LXXXV.303, 401, 405, 500, and 503)

The Louisiana Board of Veterinary Medicine proposes to amend and adopt LAC 46:LXXXV.303, 401, 405, 500, and 503 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953 et seq., and the Louisiana Veterinary Practice Act, La. R.S. 37:1518A(9). The proposed rules are being amended and adopted to implement the limited number of five (5) times an applicant is eligible to take the national veterinary examination in Louisiana which is the standard in a fast growing number of states and as requested by the national examination agency used by all US states; to more clearly define the status of a Louisiana veterinary license as either Active status or Inactive status based on qualified retirement or disability; to define the reduced annual license renewal fee for a qualified retired or disabled licensee on inactive status, as well as to confirm the annual license renewal fee exemption for a licensee on active military duty; and to more clearly define the exemption from annual continuing education requirements for a qualified retired or disabled licensee on Inactive status, and for a licensee on active military duty.

The proposed rules in general are being adopted and amended in order to maintain and improve professional competencies for the health, welfare, and safety of the citizens and animals of Louisiana. The proposed rule regarding the limited number of five (5) times an applicant is

eligible to take the national veterinary examination shall become effective upon promulgation with the exception of any pending application submitted to the Board prior to such promulgation date. The proposed rules regarding active status or inactive status based on qualified retirement or disability, as well as the reduction of the annual license renewal fee and the exemption from continuing education for a qualified retired or disabled licensee on inactive status shall become effective on July 1, 2013 (the beginning date) for the 2013-2014 annual license renewal and every annual license renewal period thereafter. The proposed rules governing the exemption from annual license renewal fee and exemption from annual continuing education requirements for a licensee on active military duty will state in the Board's rules current legal authority in effect on the subject.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LXXXV. Veterinarians

Chapter 3. Licensure Procedures

§303. Examinations

A. - B.6.b. ...

7. An applicant for licensure may only sit for the national examinations a maximum of five times. Thereafter, the applicant will no longer be eligible for licensure in Louisiana and any application submitted will be rejected.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Veterinary Medicine, LR 8:66 (February 1982), amended LR 8:144 (March 1982), amended by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:343 (March 1993), LR 19:1327 (October 1993), LR 23:964 (August 1997), LR 25:2232 (November 1999), LR 28:1982 (September 2002), LR 38:

Chapter 4. Continuing Veterinary Education

§400. Definitions

Active Status—a veterinarian who has met all of the requirements for annual licensure and is entitled to practice veterinary medicine in the state of Louisiana.

* * *

Inactive Status—a veterinarian who wishes to retain a Louisiana license, but who has not met all of the requirements for active status and, therefore, is not entitled to practice veterinary medicine in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:224 (March 1990), amended LR 19:1427 (November 1993), LR 38:

§405. Exceptions and Exemptions

A. - B. ...

C. Exemptions from these requirements may be made for persons in the following categories:

1. disabled licensees for whom participation in a program represents undue hardship. A request for a disability exemption must be documented by submitting a physician's statement of total disability without probability of return to practice for the annual renewal period. The documentation must be submitted annually with the registration form;

2. a licensee who submits an affidavit of retirement for inactive status as provided by the board is entitled to a waiver of continuing education if he has reached the age of 65 years, or he submits an affidavit of disability and physician's statement of total disability without probability of return to practice for the annual renewal period:

a. once an affidavit is received by the board, a written request for reinstatement of a license may thereafter be submitted to the board within five years of such date of receipt, provided the applicant demonstrates that he has successfully obtained all continuing education hours for the past years at issue, as well as the current year;

b. a request for reinstatement within five years of the date an affidavit is received by the board may be subject to certain conditions being met as set by the board prior to such reinstatement;

c. once an affidavit is received by the board, a written request for reinstatement of a license may be submitted to the board after the expiration of five years of such date of receipt, however, the applicant shall submit an application for re-licensure, pay all required fees and satisfactorily pass all licensure examinations; and

d. a request for reinstatement shall be made in writing for review and consideration by the board;

3. licensees on active military. An affidavit, or other sworn document from the licensee's commanding officer must accompany the annual re-registration form.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:224 (March 1990), amended LR 19:1428 (November 1993), LR 23:1147 (September 1997), LR 29:1478 (August 2003), LR 33:649 (April 2007), repromulgated LR 33:848 (May 2007), amended LR 38:

Chapter 5. Fees

§500. Definitions

Active Status—the fees charged to a veterinarian who has met all of the requirements for annual licensure and is entitled to practice veterinary medicine in the state of Louisiana.

* * *

Inactive Status—the fees charged to a veterinarian who wishes to retain a Louisiana license, but who has not met all of the requirements for active status and, therefore, is not entitled to practice veterinary medicine in the state of Louisiana. Inactive status licenses may be upgraded to active status by written request and payment of the differences between the fees.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1429 (November 1993), amended LR 38:

§503. Exemption of Fee for Active Military Duty/Reduction of Fee for Qualified Retirement/Disability

A. The board shall exempt a veterinarian licensed in the state of Louisiana from the annual license renewal fee for active status if he is a member of the armed forces and is on active duty. The board shall apply the reduced annual renewal fee for inactive status if the veterinarian is totally disabled to practice veterinary medicine without probability of return to practice for the annual renewal period at issue as

certified by a physician's statement, or if he is retired and has reached the age of 65 years.

B. In each of the above cases, the veterinarian who requests fee exemption or reduction for inactive status must register with the board annually and provide proof of his eligibility for fee exemption or reduction for inactive status in affidavit form approved by the board.

C. A licensee who submits an affidavit of retirement as provided by the board for this purpose is entitled to the reduced annual fee for inactive status if he has reached the age of 65 years, or submits an affidavit of disability and physician's statement of total disability without probability of return to practice for the annual renewal period at issue. The documentation must be submitted annually with the registration form.

1. once an affidavit is received by the board, a written request for reinstatement of a license may thereafter be submitted to the board within five years of such date of receipt, provided the applicant submits with his request the payment of all back active annual renewal fees, as well as current active annual renewal fees for application.

2. a request for reinstatement within five years of the date an affidavit is received by the board may be subject to certain conditions being met as set by the board prior to such reinstatement.

3. once an affidavit is received by the board, a written request for reinstatement of a license may be submitted to the board after the expiration of five years of such date of receipt, however, the applicant shall submit an application for re-licensure, pay all required fees and satisfactorily pass all licensure examinations.

4. a request for reinstatement shall be made in writing for review and consideration by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 and 1520.A.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Veterinary Medicine, LR 10:208 (March 1984), amended by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 23:963 (August 1997), LR 29:1478 (August 2003), LR 38:

Family Impact Statement

The proposed rules have no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Public Comments

Interested parties may submit written comments to Wendy D. Parrish, Executive Director, Louisiana Board of Veterinary Medicine, 263 Third Street, Suite 104, Baton Rouge, LA 70801, or by facsimile to (225) 342-2142. Comments will be accepted through the close of business on Friday, May 18, 2012.

Public Hearing

If it becomes necessary to convene a public hearing to receive comments in accordance with the Administrative Procedure Act, the hearing will be held on Friday, May 25, 2012, at 10 am at the office of the Louisiana Board of Veterinary Medicine, 263 Third Street, Suite 104, Baton Rouge, Louisiana.

Wendy D. Parrish
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Licensure Procedures, Continuing Veterinary Education, Fees

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no estimated costs or savings for the board with regards to the proposed rules on limiting the number to five (5) times an applicant may sit for the national veterinary medicine examination since the examination applicant interfaces directly with the national examination agency used by all U.S. states.

There will be no estimated additional costs for the board with regards to the proposed rules clarifying the reduction of the annual license renewal fee for a qualified retired or disabled licensee on Inactive status. At present, the board waives the annual license renewal fee, but incurs a comparable amount in administrative costs to process the annual license renewal application and the issuance of the license for each qualified retired or disabled licensee on Inactive status.

There will be no estimated costs or savings for the board with regards to the remaining proposed rules, except the board will incur minimal costs associated with publishing all of the proposed rules once promulgated (estimated at $400 in FY12). Licensees will be informed of this rule change via the board's regular newsletter or other direct mailings, and the Board's website, which result in minimal costs to the Board.

There will be no costs or savings to other state or local governmental units regarding the proposed rules.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no increase on revenue collections for the board with regards to the proposed rules on limiting the number to five (5) times an applicant may sit for the national veterinary medicine examination since the fee for an examination sitting is set by the national examination agency and is paid directly to it by the applicant.

The proposed rules eliminate the board's discretion to grant the waiver for the annual license renewal fee of $100 for qualified retired or disabled licensees on Inactive status. For the current annual license renewal period, there are 20 retired Inactive status licensees and 4 disabled Inactive status licensees, which will result in $2,400 in increased revenue annually. However, it is anticipated that there will be no net increase in revenue collection for the board due to the associated administrative costs. In addition, this rule shall become effective on July 1, 2013, for the 2013-2014 annual license renewal and every annual license renewal period thereafter.

There will be no increase in revenue collections for the board with regards to the remaining proposed rules. Furthermore, there will be no effect on revenue collections for the state or local governmental units with regards to any of the proposed rules.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be a cost of $100 for the annual license renewal fee for a qualified retired or disabled licensee on Inactive status. At present, the board waives the annual license renewal fee of $100 for the qualified retired or disabled licensee on Inactive status. The proposed rules on this subject eliminate the board's discretion to grant the waiver. For the current annual license renewal period, there are 20 retired

Inactive status licensees and 4 disabled Inactive status licensees. In summary, the cost for an annual license renewal fee payable by a qualified retired or disabled licensee on Inactive status is intended to only cover the board's costs for processing the application and issuing the license. This rule shall become effective on July 1, 2013 for the 2013-2014 annual license renewal and every annual license renewal period thereafter.

There will be no increase in costs and/or economic benefits for directly affected persons or non-governmental groups with regards to the remaining proposed rules.

The proposed rules have no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule limiting the number to five (5) times an applicant is eligible to take the national veterinary examination in Louisiana may have a minimal impact on competition and employment for those applicants who may have otherwise successfully passed the examination on successive attempts; however, successful passage after five (5) attempts is extremely uncommon, and such applicants have been found to not pursue licensure in Louisiana.

Wendy D. Parrish
Executive Director
1204#044

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Board of Wholesale Drug Distributors

Fees (LAC 46:XCI.801)

The Louisiana Board of Wholesale Drug Distributors proposes to amend LAC 46:XCI.801 in accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., and R.S. 37:3467 et seq., of the Louisiana Board of Wholesale Drug Distributors Practice Act. This proposed Rule amendment will support the board's ability to license entities and regulate the wholesale distribution of legend drugs and devices into and within the state of Louisiana in its effort to safeguard the life and health of its citizens and promote the public welfare. The proposed amendments to the Rule are set forth below.

Title 46
PROFESSIONAL AND OCCUPATION STANDARDS
Part XCI. Wholesale Drug Distributors
Chapter 8. Fees
§801. Fees

A. The board may collect the following fees:

1. initial license fee—$400;
2. license renewal fee—$300;
3. - 4. ...
5. license reinstatement fee for licenses suspended, revoked, or expired—$300;
6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 32:403 (March 2006), amended LR 35:1540 (August 2009), LR 38:

Family Impact Statement

The proposed Rule amendments have no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Public Comments

Interested parties may submit written comments to Kimberly B. Barbier, Executive Assistant, Louisiana Board of Wholesale Drug Distributors, 12091 Bricksome Avenue, Suite B, Baton Rouge, LA 70816. Comments will be accepted through the close of business on Tuesday, May 22, 2012.

Public Hearing

If it becomes necessary to convene a public hearing to receive comments in accordance with the Administrative Procedures Act, the hearing will be held on Tuesday, May 29, 2012, at 11 a.m. at the office of the Louisiana Board of Wholesale Drug Distributors, 12091 Bricksome Avenue, Suite B, Baton Rouge, LA.

John Liggio
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Fees

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Estimated implementation costs to the state include those associated with publishing the rule amendment estimated at $140 in FY 12 and $60 in FY 13. Licensees will be informed of this rule change via the Board's regular newsletter or other direct mailings, which will result in minimal costs to the Board. Local governmental units will not incur any costs as a result of this rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change increases license renewal and reinstatement fees by $100 and initial licensing fees by $200. If all current licensees renew (1,948), there will be an annual estimated increase of $194,800 in revenues from renewal fees, $75,200 from initial license fees ($200 x 376 average initial licenses), and $7,700 from reinstatement fees ($100 x 77 average reinstatements). As such, the total estimated revenue increase as a result of the rule changes will be $277,700 beginning in FY 13.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Wholesale drug distributor applicants for licensure would pay a $200 increase for an initial license, and current licensees would pay a $100 increase for renewal and reinstatement fees based on the proposed rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No impact on competition and employment is anticipated as a result of the proposed rule change.

John Liggio
Executive Director
1204#032

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Bureau of Health Services Financing

Facility Need Review
Hospice Providers
(LAC 48:I.12503, 12505 and 12526)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 48:I.12503 and §12505 and to adopt §12526 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 40:2116. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions governing the inclusion of adult day health care providers in the Facility Need Review (FNR) Program (*Louisiana Register*, Volume 36, Number 2). The department promulgated an Emergency Rule which amended the provisions governing the facility need review process to adopt provisions governing the inclusion of licensed hospice providers and inpatient hospice providers in the FNR Program (*Louisiana Register*, Volume 38, Number 3). This proposed Rule is being promulgated to continue the provisions of the March 20, 2012 Emergency Rule.

Title 48
PUBLIC HEALTH—GENERAL
Part I. General Administration
Subpart 5. Health Planning
Chapter 125. Facility Need Review
Subchapter A. General Provisions
§12503. General Information

A. - C.1. ...

2. home and community-based service providers, as defined under this Chapter;

3. adult day health care providers; and

4 hospice providers or inpatient hospice facilities.

D. - F.4. ...

G. Additional Grandfather Provision. An approval shall be deemed to have been granted under FNR without review for HCBS providers, ICFs-DD, ADHC and hospice providers that meet one of the following conditions:

1. ...

2. existing licensed ICFs-DD that are converting to the proposed Residential Options Waiver;

3. ADHC providers who were licensed as of December 31, 2009 or who had a completed initial licensing application submitted to the department by December 31, 2009, or who are enrolled or will enroll in the Louisiana Medicaid Program solely as a program for all-inclusive care for the elderly provider; or

4. hospice providers that were licensed, or had a completed initial licensing application submitted to the department, by March 20, 2012.

H. - H.2. ...

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

HISTORICAL NOTE: Repealed and repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:808 (August 1995), amended LR 28:2190 (October 2002), LR 30:1483 (July 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 34:2612 (December 2008), amended LR 35:2437 (November 2009), LR 36:323 (February 2010), LR 38:

§12505. Application and Review Process

A. FNR applications shall be submitted to the Bureau of Health Services Financing, Health Standards Section, Facility Need Review Program. The application shall be submitted on the forms (on 8.5 inch by 11 inch paper) provided for that purpose, contain such information as the department may require and be accompanied by a nonrefundable fee of $200. An original and three copies of the application are required for submission.

A.1. - B.3.b. ...

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

HISTORICAL NOTE: Repealed and repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:812 (August 1995), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 34:2612 (December 2008), amended LR 35:2438 (November 2009), LR 36:323 (February 2010), LR 38:

Subchapter B. Determination of Bed, Unit, Facility or Agency Need

§12526. Hospice Providers

A. No hospice provider shall be licensed to operate unless the FNR Program has granted an approval for the issuance of a hospice provider license. Once the FNR Program approval is granted, a hospice provider is eligible to be licensed by the department, subject to meeting all of the requirements for licensure.

B. The service area for proposed or existing hospice providers is within a 50 mile radius of the proposed geographic location where the provider is or will be licensed.

C. Determination of Need/Approval

1. The department will review the application to determine if there is a need for an additional hospice provider within a 50 mile radius of the proposed geographic location for which the application is submitted.

2. The department shall grant FNR approval only if the FNR application, the data contained in the application and other evidence effectively establishes the probability of serious, adverse consequences to the recipients' ability to access hospice care if the provider is not allowed to be licensed.

3. In reviewing the application, the department may consider, but is not limited to, evidence showing:

a. the number of other hospice providers within a 50 mile radius of the proposed geographic location servicing the same population; and

b. allegations involving issues of access to hospice care and services.

4. The burden is on the applicant to provide data and evidence to effectively establish the probability of serious, adverse consequences to recipients' ability to access hospice

care if the provider is not allowed to be licensed. The department shall not grant any FNR approvals if the application fails to provide such data and evidence.

D. Applications for approvals of licensed providers submitted under these provisions are bound to the description in the application with regard to the type of services proposed as well as to the site and location as defined in the application. FNR approval of licensed providers shall expire if these aspects of the application are altered or changed.

E. FNR approvals for licensed providers are non-transferrable and are limited to the location and the name of the original licensee.

1. A hospice provider undergoing a change of location within a 50 mile radius of the licensed geographic location shall submit a written attestation of the change of location and the department shall re-issue the FNR approval with the name and new location. A hospice provider undergoing a change of location outside of the 50 mile radius of the licensed geographic location shall submit a new FNR application and fee and undergo the FNR approval process.

2. A hospice provider undergoing a change of ownership shall submit a new FNR application to the department's FNR Program. FNR approval for the new owner shall be granted upon submission of the new application and proof of the change of ownership, which must show the seller's or transferor's intent to relinquish the FNR approval.

3. FNR approval of a licensed provider shall automatically expire if the hospice agency is moved or transferred to another party, entity or location without an application being made to, and approval from, the FNR Program.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

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.

Public Comments

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, May 30, 2012 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Bruce D. Greenstein
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Facility Need Review Hospice Providers

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 11-12. It is anticipated that $656 (SGF) will be expended in FY 11-12 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule may increase revenue collections to the Department as a result of the collection of facility need review (FNR) application fees; however, there is no way to determine how many providers may apply for licensing and undergo the FNR process so the anticipated revenue collections are indeterminable.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule proposes to amend the provisions governing the facility need review process to include licensed hospice providers and inpatient hospice providers in the FNR Program. It is anticipated that implementation of this proposed rule will have economic costs for hospice providers who seek licensure based on the existing facility need review application fee of $200; however, the cost is indeterminable since there is no way to establish how many hospice providers will apply for licensing and undergo the FNR process.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Don Gregory	H. Gordon Monk
Medicaid Director	Legislative Fiscal Officer
1204#065	Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Correction
Board of Private Security Examiners

Continuing Education Credits (LAC 46:LVII.519)

Notice is hereby given that the Board of Private Investigator Examiners, in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and relative to the authority granted to it to adopt, amend or repeal rules provided by R.S. 37:3505, and to prescribe and adopt regulations governing the manner and conditions under which credit shall be given by the board for participation in professional education, proposes to amend Chapter 5 of LAC 46:LVII by promulgating a new Rule governing continuing education credit.

The Board of Private Investigator Examiners proposes to promulgate LAC 46:LVII.519, Continuing Education Credit, to outline the standards that will govern the approval of continuing education credits by the board. The additions to

continuing education policy are being made for the purpose of improving the courses provided to licensees to maintain the highest standards of the private investigator industry in the state. The amendment proposed is consistent with the law and strictly part of the board's enforcement and regulation function as authorized by R.S. 37:3505.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LVII. Private Investigator Examiners
Chapter 5. Application, Licensing, Training, Registration and Fees
§519. Continuing Education Credits

A. The following standards will govern the approval of continuing education credits by the LSBPIE.

1. The continuing education course must have significant intellectual or practical content and its primary objective must be to maintain or increase the licensee's professional competence as a private investigator.

2. The continuing education course must deal primarily with matters related to the private investigator profession and industry, ethical obligations or professionalism of the private investigator.

3. The continuing education course must be given by an approved continuing education provider and approved continuing education instructor.

4.a A continuing education course may be approved upon written application, which shall:

i. be submitted annually at least four months in advance of the continuing education course;

ii. be submitted on the application form provided by the LSBPIE via a format approved by LSBPIE;

iii. contain all information requested on the application form;

iv. at a minimum, be accompanied by a sample course outline that describes the course content, identifies the instructors and their credentials, lists the time devoted to each topic, and shows the date and location at which the program will be offered.

b. The LSBPIE may in its discretion, upon showing of good cause, grant retroactive approval of a continuing education course.

5. Upon approval of the application, a continuing education provider and instructor is conditionally approved to teach the continuing education course for one year.

6. The LSBPIE may at any time evaluate an activity and revoke approval of a continuing education course, a continuing education provider, and/or a continuing education instructor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505 (B)(1)(2).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 38:

Family Impact Statement

1. What effect will this Rule have on the stability of the family? The proposed Rule will not affect the stability of the family.

2. What effect will this have on the authority and rights of person regarding the education and supervision of their children? The proposed Rule will not affect the authority or rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? This Rule will not affect the functioning of the family.

4. What effect will this have on family earnings and family budget? This Rule will not affect the family earnings or family budget.

5. What effect will this have on the behavior and personal responsibility of children? This Rule will not affect the behavior or personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed Rule? No, the action proposed is strictly a Board of Private Investigator Examiners enforcement function.

Public Comments

Interested persons may submit written data, views, comments or arguments to Pat Englade, Executive Director, Board of Private Investigator Examiners, 2051 Silverside Dr., Ste. 190, Baton Rouge, LA 70808. All comments must be submitted by 4:30 p.m., on May 10, 2012.

Pat Englade
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Continuing Education Credits

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed Rule change will have no impact on state or local government expenditures. The proposed Rule change outlines the standards that will govern the approval of continuing education credit by the Louisiana State Board of Private Investigator Examiners (LSBPIE).

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units as a result of this proposed action.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed Rule change will have no costs to directly affected persons. The proposed Rule change can potentially create economic benefits for individuals receiving standardized continuing education credits targeted specifically to skills and topics relevant to those working as private investigators in the state. The board does not anticipate the proposed changes will impact the cost charged for continuing education credits.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed Rule change should have no impact on competition and employment among investigators as all Louisiana private investigator licensees will be subject to the same continuing education requirement.

Continuing education providers and continuing education instructors would be directly affected by the proposed action because it may decrease their eligibility to teach continuing education courses if they do not meet the specified qualifications. Costs savings and/or economic benefits would be speculative. There were 107 continuing education providers approved to offer course credit in Louisiana as of September 2011.

Pat Englade
Executive Director
1204#074

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections
Corrections Services

Performance Grid and Administrative Sanctions
(LAC 22:I.409)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), the Department of Public Safety and Corrections, Corrections Services, hereby gives notice of its intent to promulgate Section 409, Performance Grid and Administrative Sanctions.

Title 22
CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT
Part I. Corrections
Chapter 4. Division of Probation and Parole
§409. Performance Grid and Administrative Sanctions

A. Purpose—to establish the secretary's policy for addressing the behavior of an offender through the use of a performance grid and administrative sanctions. The performance grid and administrative sanctions ensure consistent and timely actions which shall be imposed in response to violations enumerated on the grid. This works to achieve public safety by holding offenders accountable for their behavior and reinforcing positive behavior.

B. Applicability—deputy secretary, director of probation and parole, regional administrators, district administrators and all probation and parole officers. The director of probation and parole is responsible for ensuring that appropriate unit written policy and procedures are in place to comply with the provisions of this regulation.

C. Policy. It is the secretary's policy to address violations in a timely, consistent and reasonable manner by use of the performance grid, which may include administrative sanctions. Absent significant risk to public safety, these actions and/or administrative sanctions would be graduated and proportional with the level of violations. The needs of the offender shall also be considered to assist in the successful completion of their sentence. The grid is a tool to guide probation and parole officers in the application of administrative sanctions. It is also the secretary's policy to recognize and reward offenders for achieving progress made towards goals formulated in the supervision plan.

D. Definitions

Actions—added conditions or requirements placed on the offender by the probation and parole officer, the court or the board of parole in an effort to prevent any further violations by an offender.

Administrative Sanctions—imposed by the probation and parole officer to address technical violations in accordance with Act No. 104 of the 2011 Regular Session to include, but not be limited to: jail; non-custodial treatment; community service work; house arrest; electronic monitoring, restitution centers, transitional work programs, day reporting centers and other local sanctions not already imposed as special conditions of supervision.

Performance Grid—a four level instrument used to register any violation enumerated on the performance grid by an offender and the actions taken by a probation and parole officer in response to those violations. Each level is graduated to address the seriousness of the violations that occur.

Violations—any behavior, action or inaction, which is contrary to the conditions of probation or parole supervision which may or may not be enumerated on the performance grid.

E. The following violations are specific to violations in which probation and parole officers may use the administrative sanctions.

Parole Technical Violations—all violations of the conditions of parole, except those resulting in a new arrest, charge, conviction of a felony or an intentional misdemeanor directly affecting the person or being in possession of a firearm or other prohibited weapon.

Probation Technical Violations—all violations of probation, except those resulting in an arrest for a subsequent criminal act.

F. General Application of Performance Grid in Response to Violations

1. Timely and appropriate actions shall be taken in accordance with the procedures of this regulation when a probation and parole officer becomes aware of an offender's violation(s).

2. The officer shall utilize the performance grid for enumerated violations specific to the offender and the violation. The absence of any other technical violation from the performance grid does not prohibit the probation and parole officer from addressing these violations in an appropriate manner.

3. The performance grid shall not be utilized to address violations of not guilty by reason of insanity and interstate compact cases.

4. When using the performance grid, the probation and parole officer shall locate the performance grid specific to the offender, select the enumerated violation(s) and choose the appropriate coinciding action(s) and/or administrative sanctions. When imposing sanction(s) for violations, all appropriate actions shall be selected to fully address violations, especially when selecting jail as an administrative sanction (i.e., substance abuse treatment after jail sanction is imposed).

5. Although a wide range of actions and administrative sanctions are available for response to certain violations, probation and parole officers may determine that a departure from the recommended actions may be a more appropriate response to a violation(s). The reasons for the departure shall be explained in the narratives.

6. Actions taken for a positive drug screen shall also include mandatory retesting within 45 days.

7. When the offender completes the last action directed, the offender returns to a compliant status. Any new violation that occurs after the offender has returned to compliant status for six months will be addressed as a level 1 violation.

G. Administrative Sanctions

1. When using the performance grid, probation and parole officers may opt to utilize administrative sanctions when authorized by the court or board of parole. These administrative sanctions are located in the actions column of the performance grid. The violation(s) and subsequent sanction(s) shall be noted on the performance grid when completing case narratives as described in Paragraph E.5 of

this regulation. The performance grid establishes the level and type of administrative sanctions that may be imposed by probation and parole officers and the level and type of violations that warrant a recommendation that the offender be returned to the court or the board of parole.

2. When imposing administrative sanctions, the following factors shall be taken into consideration:

a. severity of the violation;

b. prior violation history;

c. severity of the underlying criminal conviction;

d. any special circumstances, characteristics or resources of the offender;

e. protection of the community;

f. deterrence;

g. availability of local sanctions, including, but not limited to: jail; non-custodial treatment; community service work; house arrest; electronic monitoring; restitution centers; transitional work programs; day reporting centers and other local sanctions not already imposed as special conditions of supervision.

3. When imposing administrative sanctions (including jail sanctions) that are not already conditions of supervision (i.e., electronic monitoring, substance abuse treatment, etc.) the probation and parole officer shall complete the notification of administrative sanctions and shall obtain supervisor approval prior to imposing the sanctions.

4. For the offender to accept the administrative sanction, the offender must be given notice of the violation(s), must waive his right to a hearing and counsel, must consent to the administrative sanction being imposed and must admit the violation(s). All offenders who are offered administrative sanction(s) shall receive the following process.

a. The notification of administrative sanctions form shall be printed, read and thoroughly explained to the offender. The offender shall then be given the option of accepting or refusing the imposed administrative sanction(s).

b. When the offender agrees to the administrative sanction(s), the offender, supervising probation and parole officer and supervisor shall sign and date the notification of administrative sanctions form. The offender shall be provided a copy of the completed notification of administrative sanctions form.

c. If jail is being imposed as an administrative sanction, CAJUN and case management shall be updated by appropriate district office staff (support employee or probation and parole officer) to indicate correct location and transfer dates. The local jail facility shall also be provided a completed notification of administrative sanctions form for their records.

d. When a jail sanction is chosen, the probation and parole officer is limited to the number of jail days in the appropriate level, regardless of the number of violations that have occurred. The number of total jail days an offender serves cannot exceed 60 days in a 12 month period. This twelve month period begins upon the imposition of the first jail sanction.

e. The court, board of parole, district attorney and defense counsel of record shall be provided a copy of the notification of administrative sanctions form.

5. If the offender refuses the administrative sanction(s), the offender shall be given the opportunity to explain in writing on the notification of administrative sanctions form why the administrative sanction is being refused. The refusal shall be witnessed and dated. This information shall be provided to the court or board of parole for further action.

6. Monthly reports shall be submitted electronically no later than the tenth day of the month following the reporting period utilizing the C-05-001 reporting database and appropriate C-05-001 form.

H. Rewards and Recognition

1. The performance grid shall also recognize and reward offenders for positive behavior changes, compliance with the conditions of supervision and progress made towards achievement of goals. Timely and appropriate action shall be taken in response to positive behavior as enumerated in the performance grid.

2. Recognition shall also be achieved by reducing the level of supervision and early termination, suspended status and self reporting as established in current policy and procedure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 38:

Family Impact Statement

Promulgation of this Rule has no known impact on family formation, stability or autonomy, as described in R.S. 49:972.

Public Comments

Written comments may be addressed to Melissa Callahan, Deputy Assistant Secretary, Department of Public Safety and Corrections, P. O. Box 94304, Baton Rouge, LA 70804 until 4:30 p.m. on May 10, 2012.

James M. Le Blanc
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Performance Grid and Administrative Sanctions

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule may result in an indeterminable decrease in costs to the Department of Corrections. Pursuant to Act 104 of the 2011 Regular Legislative Session, probationers and parolees may receive administrative sanctions for technical violations while under supervision. Act 104 provides for a system implemented by the department to take into account a variety of factors to deal with administrative sanctions and if jail confinement is imposed, the offender cannot be confined for more than 10 days per violation and no more than 60 days per year, which is a decrease from previous law that allowed for a maximum confinement of 90 days. Pursuant to Act 104, each probationer or parolee that does violate the terms of his supervision, but spends less time confined to jail will decrease department expenditures by $21.97 ($24.39 per day in a local facility - $2.42 per day under supervision) per day by not being confined to a local facility. To the extent an offender violates the terms of supervision, he can serve up to 10 days per violation as opposed to the previous maximum term of 90 days for the first violation. For illustrative purposes, if an offender serves 10 days for the first violation, the savings to the

Department of Corrections will be $1,758 (90 days jail confinement - 10 days jail confinement x $21.97 per day).

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There would be no impact on Revenue Collections of state or local governmental units as a result of this proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is no estimated cost and/or economic benefit to directly affected persons or non-governmental groups as a result of this proposed rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment as a result of this proposed rule.

Thomas C. Bickham, III	Evan Brasseaux
Undersecretary	Staff Director
1204#071	Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections
Corrections Services

Sex Offender Treatment Plans and Programs
(LAC 22:I.337)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), the Department of Public Safety and Corrections, Corrections Services, hereby gives notice of its intent to amend the contents of Section 337, Sex Offender Treatment Plans and Programs.

Title 22
CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT
Part I. Corrections
Chapter 3. Adult Services
Subchapter A. General
§337. Sex Offender Treatment Plans and Programs

A. Purpose—to state the department's procedures for providing sex offender treatment plans and programs as set forth pursuant to the laws of this state.

B. Applicability—deputy secretary, chief of operations, department's medical/mental health director, director of probation and parole, chairman of the board of parole, regional wardens, wardens and sheriffs or administrators of local jail facilities. Each unit head is responsible for ensuring that appropriate unit written policy and procedures are in place to comply with the provisions of this regulation.

C. Policy. It is the secretary's policy that certain convicted sex offenders (as specifically defined in Subsections E, F, G and H) shall participate in appropriate sex offender treatment plans pursuant to the provisions of this regulation and the statutory requirements as stated herein.

D. Definitions

Mental Health Evaluation (for the purpose of this regulation)—an examination by a qualified mental health professional with experience in treating sex offenders.

Qualified Mental Health Professional (for the purpose of this regulation)—an individual who provides sex offender treatment to offenders in keeping with their respective levels of education, experience, training and credentials.

E. Sex offender treatment plan pursuant to R.S. 15:538(C):

1.a. no sex offender whose offense involved a minor child who is twelve years old or younger or who is convicted two or more times of a violation of:

i. R.S. 14:42—aggravated rape;
ii. R.S. 14:42.1—forcible rape;
iii. R.S. 14:43—simple rape;
iv. R.S. 14:43.1—sexual battery;
v. R.S. 14:43.2—second degree sexual battery;
vi. R.S. 14:43.3—oral sexual battery;
vii. R.S. 14:43.4—Repealed.
viii. R.S. 14:78—incest;
ix. R.S. 14:78.1—aggravated incest;
x. R.S. 14:89.1—aggravated crime against nature;

b. shall be eligible for probation, parole, suspension of sentence, or diminution of sentence if imposed as a condition by the sentencing court pursuant to R.S. 15:537(A), unless, as a condition thereof, the offender undergoes a treatment plan based upon a mental health evaluation.

2. It shall be the responsibility of ARDC specialists during the pre-class verification process to identify those offenders whose sentence places them under the provisions of R.S. 15:538(C). It is preferable that state offenders in this category be transferred from a local jail facility to a departmental reception and diagnostic center. The Office of Adult Services' Transfer Section shall be responsible for the transport of these offenders to the department's custody. The basic jail guidelines regional team leaders shall assist local jail facilities with any questions or concerns regarding the provisions of R.S. 15:538(C).

a. If an offender assigned to an institution should receive a new sentence for an identified sex offense, it will be the responsibility of the warden to determine if they are subject to the conditions of R.S. 15:538(C).

3. Each institution and the division of probation and parole shall make arrangements with qualified mental health professionals for the purpose of conducting mental health evaluations and to develop and implement treatment plans.

4. The treatment plan shall be based upon a mental health evaluation and shall effectively deter recidivist sexual offenses by the offender, thereby reducing the risk of reincarceration of the offender and increasing the safety of the public, and under which the offender may reenter society.

5. The treatment plan may include:

a. the utilization of medroxyprogesterone acetate treatment (MPA) or its chemical equivalent as a preferred method of treatment;

b. a component of defined behavioral intervention if the evaluating qualified mental health professional determines that is appropriate for the offender.

6. The provisions of R.S. 15:538(C) shall only apply if parole, probation, suspension of sentence, or diminution of sentence is permitted by law and the offender is otherwise eligible.

7. If on probation or subject to a sentence that has been suspended, the offender shall begin MPA or its chemical equivalent treatment as ordered by the court or a qualified mental health professional and medical staff.

8. If MPA or its chemical equivalent is part of an incarcerated offender's treatment plan, the offender shall begin such treatment at least six weeks prior to release.

9. Once a treatment plan is initiated, based upon a mental health evaluation, it shall continue unless it is determined by a physician or qualified mental health professional that it is no longer necessary. The attending physician or qualified mental health professional may seek a second opinion.

10. If an offender voluntarily undergoes a permanent, surgical alternative to hormonal chemical treatment for sex offenders, he shall not be subject to the provisions of this regulation.

11. Before beginning MPA or its chemical equivalent therapy, the offender shall be informed about the uses and side effects of MPA therapy, and shall acknowledge in writing using the consent/refusal for medroxyprogresterone treatment (Form B-06-002-A) that he has received this information.

12. The offender shall be responsible for the costs of the evaluation, the treatment plan and the treatment:

a. if the offender is not indigent, these services will be rendered by an outside mental health provider based upon a fee schedule established by the Department of Public Safety and Corrections. If the offender is on probation or under parole supervision, services will be rendered at the provider's place of business. If the offender is housed in an institution, services will be rendered by the provider at the state or local jail facility. In either event, the department reserves the right to determine the eligibility of the provider to furnish services;

b. indigent offenders who are on probation or under parole supervision will be responsible for seeking services through the Department of Health and Hospitals, Office of Mental Health (with assistance, as needed, from their probation and parole officer). The provision of such services is strictly subject to the availability of resources and programs within the Department of Health and Hospitals. If the offender is housed in a state institution, services will be provided by Department of Public Safety and Corrections' mental health staff. A set-up fee will be charged to the offender based upon the fee scale for non-indigent offenders and the offender's account shall reflect the cost of the service as a debt owed;

c. indigent offenders housed in local jail facilities requiring these services should be transferred, if possible, to the department's reception and diagnostic center. In unusual circumstances when this is not possible, services for these offenders shall be coordinated by the administrator of the local jail facility with the Department of Health and Hospitals, Office of Mental Health (with assistance, as needed, from the department's medical/mental health director or the basic jail guidelines regional team leader). The provision of such services is strictly subject to the availability of resources and programs within the Department of Health and Hospitals.

13. Chemical treatment shall be administered through a licensed medical practitioner. Any physician or qualified mental health professional who acts in good faith in compliance with this regulation in the administration of treatment shall be immune from civil or criminal liability for his actions in connection with the treatment. The offender may decline to participate in the evaluation or treatment plan by signing the consent/refusal for medroxyprogresterone treatment (Form B-06-002-A) indicating that he acknowledges his decision renders him ineligible for probation, parole, suspension of sentence or diminution of sentence if conditioned by the court. However, the provisions of R.S. 15:828, R.S. 14:43.6 or C.Cr.P. Art. 895(J) may still be applicable. (See Subsections F, G and H of this regulation for additional information.)

14. Failure to continue or complete treatment shall be grounds for revocation of probation, parole, or suspension of sentence, or, if so conditioned by the parole board, revocation of release on diminution of sentence.

a. Good time earned may be forfeited pursuant to R.S. 15:571.4. Should an offender in an institutional setting fail to continue or complete his sex offender treatment plan, an incident report shall be initiated and good time forfeited, if appropriate, pursuant to established policy and procedures.

15. Wardens and the director of probation and parole shall ensure strict adherence to the procedures of this regulation.

F. Sex Offender Treatment Program Pursuant to R.S. 15:828

1. *Sex offenders* for the purpose of R.S. 15:828 and this Section are defined as persons committed to the custody of the Department of Public Safety and Corrections for a crime enumerated in R.S. 15:541. An individual convicted of the attempt or conspiracy to commit any of the defined sex offenses shall be considered a sex offender for the purposes of R.S. 15:828 and this Section.

a. Subject to the availability of resources and appropriate individual classification criteria, sex offenders as defined in Paragraph F.1 of this regulation and who are housed in a state correctional facility should be provided counseling and therapy by institutional mental health staff in a sex offender treatment program until successfully completed or until expiration of sentence, release on parole in accordance with and when permitted by R.S. 15:574.4, or other release in accordance with law, whichever comes first.

b. A sex offender treatment program means one which includes either or both group and individual therapy and may include arousal reconditioning. Group therapy should be conducted by two therapists, one male and one female. Subject to availability of staff, at least one of the therapists should be licensed as a psychologist, board-certified as a psychiatrist or a clinical social worker. A therapist may also be an associate to a psychologist under the supervision of a licensed psychologist.

c. Reports, assessments, and clinical information, as available, including any testing and recommendations by mental health professionals, shall be made available to the board of parole.

2. If the offender is convicted of a crime enumerated in R.S. 15:538(C), then he shall be treated in accordance with that statute and not R.S. 15:828.

G. Sex offender treatment program pursuant to R.S. 14:43.6:

1.a. notwithstanding any other provision of law to the contrary, the court may order an offender convicted of the following offenses:

i. R.S. 14:41—aggravated rape;

ii. R.S. 14:42.1—forcible rape;

iii. R.S. 14:43.2—second degree sexual battery;

iv. R.S. 14:78.1—aggravated incest;

v. R.S. 14:81.2(D)(1)—molestation of a juvenile when the victim is under the age of 13;

vi. R.S. 14:89.1—aggravated crime against nature;

b. to be treated with medroxyprogesterone acetate (MPA) according to a schedule of administration monitored by the Department of Public Safety and Corrections.

2. If the court orders the offender to be treated with MPA, this treatment may not be imposed in lieu of, or reduce, any other penalty prescribed by law. However, in lieu of treatment, the court may order the defendant to undergo physical castration provided the offender files a written motion with the court stating that he intelligently and knowingly gives his voluntary consent to physical castration as an alternative to the treatment.

3. An order of the court sentencing the offender to MPA pursuant to R.S. 14:43.6 shall be contingent upon a determination by a court appointed medical expert that the offender is an appropriate candidate for treatment. This determination shall be made not later than 60 days from the imposition of the sentence. The court order shall specify the duration of the treatment for a specific term of years, or in the discretion of the court, up to the life of the offender.

4. In all cases involving the administration of MPA, the treatment shall begin not later than one week prior to the offender's release from incarceration.

5. The department shall provide the services necessary to administer the MPA treatment and shall not be required to continue the treatment when it is not medically appropriate as determined by the department.

6. If an offender fails to appear as required by the schedule of administration as determined by the department, or the offender refuses to allow the administration of MPA, the offender shall be charged with a violation of R.S. 14:43.6.

7. If an offender ordered to be treated with MPA or ordered to undergo physical castration takes any drug or other substance to reverse the effects of the treatment, he shall be held in contempt of court in accordance with R.S. 14:43.6.

8. If an offender is ordered by the court pursuant to R.S. 14:43.6, then he shall be treated in accordance with that statute and no others.

H. Sex Offender Treatment Program Pursuant to C.Cr.P. Art. 895(J)

1. In addition to other requirements of law and established policy and procedure, in cases where a defendant has been convicted of an offense involving criminal sexual activity, the court shall order as a condition of probation that the defendant successfully complete a sex offender treatment program. As part of the sex offender treatment program, the offender shall participate with a victim impact panel or program providing a forum for victims of criminal sexual activity and sex offenders to share experiences on the impact of the criminal sexual activity in their lives. The director of probation and parole shall establish procedures to implement victim impact panels. All costs for the sex offender treatment program, pursuant to this Paragraph shall be paid by the offender.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:538(C).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 24:2308 (December 1998), amended LR 26:332 (February 2000), LR 38:

Family Impact Statement

Amendment to the current Rule has no known impact on family formation, stability or autonomy, as described in R.S. 49:972.

Public Comments

Written comments may be addressed to Melissa Callahan, Deputy Assistant Secretary, Department of Public Safety and Corrections, P.O. Box 94304, Baton Rouge, LA 70804 until 4:30 p.m. on May 10, 2012.

James M. Le Blanc
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Sex Offender Treatment Plans and Programs

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will have no fiscal impact on state or local government expenditures. The proposed rule change is a technical adjustment that amends the current regulation regarding the Department's Sex Offender Treatment Plans and Programs.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no impact on the Revenue Collections of state or local governmental units as a result of the proposed rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is no estimated cost and/or economic benefit to directly affected persons or non-governmental groups as a result of the proposed rule change.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment as a result of the proposed rule change.

Thomas C. Bickham, III	Evan Brasseaux
Undersecretary	Staff Director
1204#070	Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections
Office of Motor Vehicles

Driver's License—General Requirements
(LAC 55:III.143-157)

Under the authority of R.S. 37:3270 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Office of Motor Vehicles, hereby proposes to adopt Sections 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156 and 157 under Chapter 1 to implement Act 294 of the 2011 Regular Session pertaining to all driver education providers being consolidated under the Department of Public Safety and Corrections, Public Safety Services, to implement Act

307 of the 2011 Regular Session relevant to the mandate that all driver education providers become certified third party testers by June 30, 2012, and to implement Act 311 of the 2011 Regular Session which mandates that all driver education courses shall include information on the economic effects of littering.

Title 55
PUBLIC SAFETY
Part III. Motor Vehicles

Chapter1. Driver's License

Subchapter A. General Requirements

§143. Definitions

A. As used in this Chapter, the following terms have the meanings described below.

30 Hour Classroom Course—a program which shall consist of a course of not less than 30 hours of classroom instruction required of first-time driver's license applicants age 15 and 16 excluding lunch breaks. The classroom course may include a web based course equivalent to 30 hours of classroom instruction, which has been pre-approved by DPS. This course shall be conducted utilizing the curriculum contained in this subchapter.

DPS—as referenced herein, the department shall be construed as referring to the Louisiana Department of Public Safety and Corrections, Public Safety Services, acting directly or through its duly authorized officers and representatives.

Driver Education Completion Certificate—proof of successful completion of the driver education course or the six hour pre-licensing course required by law, completed by a certified and approved driving school in the form designated by the Department of Public Safety.

Driving School—an entity licensed by DPS that offers instruction for the purpose of educating and training an individual, by offering a 38 hour driving course and/or a six hour pre-licensing course.

Eight Hour Behind the Wheel Course—a program which shall consist of a minimum of eight hours of instruction with the student as the operator of a dual-controlled motor vehicle. If under the age of 18, the student's parent or guardian shall sign, authorizing the instruction.

Instructor License—a license issued by DPS granting the holder of the license the authorization to provide instruction in driver education courses.

Major Offense—an infraction of major regulations and policies outlined within this chapter. Penalty will be assessed in the amount of $250 for the first offense, $500 for a second offense and possible revocation of the license. Revocation will be based on the nature of the infraction and left up to the discretion of the department.

Minor Offense—an infraction of the minor regulations and policies outlined within this Chapter. Penalty will be assessed in the amount of $100 per offense and possible suspension. Possible revocation of the school's license may occur after three offenses within a 12 month period. Revocation will be based on the nature of the infraction and left up to the discretion of the department.

Motor Vehicle—automobiles, trucks, truck-tractors, trailers and semi-trailers and motorcycles, propelled by steam, gasoline, electricity, or any other source of energy other than muscular power, except farm implements temporarily operated or moved on a highway or vehicles operated only on rails or tracks constructed therefor.

OMV—any reference herein to OMV shall be construed as referring to the Office of Motor Vehicles, Training and Certification Unit, P.O. Box 64886, Baton Rouge, LA, 70896.

Operator—every person who is in actual physical control of a motor vehicle upon a highway.

Penalty—monetary assessment for violation of procedures outlined in this Chapter.

Person—every natural person, firm, co-partnership, association or corporation.

Revocation—termination of license to operate a driving school or to instruct at a driving school as provided in these rules and regulations.

Secretary—the deputy secretary of the Department of Public Safety and Corrections, Public Safety Services, or his appointed designee.

School license—a license issued by DPS authorizing the holder of the license to provide driver education courses.

Six Hour Pre-licensing Course—a program which shall consist of six hours of classroom instruction required of first-time driver's license applicants seventeen years of age and above, if a 30-hour classroom course and eight hour behind the wheel course is not completed.

Street or *Highway*—the entire width between the boundary lines of every publicly maintained thoroughfare when any part thereof is open to the use of the public for purposes of vehicular travel.

Suspension—the temporary withdrawal of a school or instructor's license for violations of the laws and rules pertaining to driver's education.

Teaching Certificate—a certificate issued by Louisiana Department of Education indicating the holder is qualified to teach in the secondary schools of this state.

Temporary Instruction Permit—a permit issued by the driving school on a form approved and provided by DPS and permits unlicensed student drivers to receive instruction on public highways from a licensed behind the wheel instructor.

Third Party Examiner—an individual who has been licensed to administer road skills test through a third party tester.

Third Party Tester—for purposes of this chapter, a driving school with which DPS has perfected a contract with to administer road skills tests.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:402.1(A)(1) and R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 38:

§144. Driver Education and Driving Schools

A. DPS shall establish a driver education and training program to be utilized by secondary school systems and private driving schools of this state. The program shall consist of a course of not less than thirty hours of classroom instruction and eight hours of actual driving experience to eligible students as defined in R.S. 32:402.

B. Any application received and approved for a driving school after August 15, 2011, will be issued a license that provides for the administration of a 38-hour driver's education course, a 6-hour pre-licensing course, and the administration of written and road skills test as a third party

tester. Any DPS approved driving school licensed to only offer the six hour pre-licensing course as of August 15, 2011, will be licensed to continue to offer only the six hour pre-licensing course, but will be required to become a third party tester, and is responsible for complying with the new requirements set forth in these rules. No other applications for only providing the six hour pre-licensing course will be accepted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:402.1(A)(1) and R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 38:

§145. Qualifications for Private Driving School Owners and Instructors

A. Qualifications for a Private Driving School Owner. To become a driving school owner, the applicant shall:

1. be a citizen of the United States or be lawfully present in the United States, and be a resident of the state of Louisiana;

2. be at least 21 years of age;

3. hold a valid Louisiana driver's license;

4. have earned at least a high school diploma or GED;

5. possess any required occupational license;

6. submit a completed application package as outlined in this Subchapter;

7. not have been convicted of any felony offenses related to the operation of a driving school or other business regulated by DPS;

8. not have been convicted of a crime involving violence, dishonesty, deceit, indecency or an offense involving moral turpitude within the last ten years;

9. not be convicted of any crime enumerated in R.S. 15:587.1(C) (the Child Protection Act);

10. is not a current or previous owner of a driving school or any other business regulated by DPS whose license has been revoked;

11. has not provided false information with the application or falsified or withheld documents or information from representatives of DPS;

12. not have been convicted of any misdemeanor or felony offenses involving controlled dangerous substance(s) or driving while intoxicated within the last 10 years.

B. Qualifications for Classroom Instructor. In addition to meeting the qualifications of a driving school owner, a classroom instructor the applicant shall:

1. a. currently hold a valid teaching certificate with the following specialized education courses:

i. general safety education—three hours;

ii. basic information course in Driver Education course—three hours;

iii. curriculum innovations and instructional devices course (three hours) in-depth study of driver education and traffic safety curricular materials and familiarization with related instructional devices;

iv. first aid—one hour; or

b. a certificate of completion of a driver education course at least equivalent to a 30-hour classroom course which has been approved by DPS;

2. at the time of application, within the last three years, shall not have the convictions listed below or a combination of three or more single convictions listed below:

a. driving under suspension;

b. two or more citations for seatbelt violations;

c. two or more citations for following too closely;

d. one or more citations for child restraint violations;

e. three or more exceeding the posted speed limit;

f. one or more citations for texting while driving;

3. have at least five years driving experience;

4. has not previously been a licensed instructor whose license has been suspended or revoked.

C. Qualifications for Eight-Hour Behind the Wheel Instructor. To be an eight-hour behind the wheel instructor the applicant shall:

1. meet the qualifications of a classroom instructor;

2. hold at least a valid Class "D" Louisiana chauffeur's license;

3. not be missing an eye, hand or foot; and

4. have visual acuity not worse than 20/40 in each eye, with or without corrective lenses and not have any restrictions which indicate less than 20/40 vision or has physical impairment restrictions on his driver's license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:402.1(A)(1) and R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 38:

§146. Application Process and Fees for Private Driving Schools and Instructors

A. Application Process for Initial Driving School License. The application process is a two step approval process.

1. An applicant for an initial driving school license shall complete and submit the following:

a. completed initial application for driving school owner approval (DPSMV6710);

b. non-refundable $50 certified check or money order made payable to the DPS;

c. completed criminal history background check forms for each owner, including two fingerprint cards along with separate certified check or money order made payable to Department of Public Safety and Corrections, for each background check to be conducted. The current fee is $26;

d. lesson plan containing:

i. beginning and ending time of each class day, including lunch and break periods;

ii. number of class days in the course;

iii. material sources;

iv. how information is presented, (i.e. handouts, videos, lectures);

v. title of audio visual sources to be utilized;

vi. current e-mail address.

2. Once the background check is successfully completed and the initial application is approved, the applicant shall submit the following:

a. completed driving school initial application (DPSMV 2147). This form is furnished by OMV and shall be signed by the owner and notarized;

b. copy of any required occupational license;

c. completed background check forms on any other employees responsible for the supervision of students;

d. certificate of insurance in the company name stating that all vehicles utilized in the behind the wheel

course are currently insured and that upon cancellation or expiration, the department will be notified. This certificate shall be from the issuing insurance carrier, not the agency; identify (by description and vehicle identification number) the vehicle(s) covered. The limits shall be from a company authorized to do business in this state in the amount of at least the minimum amount required by R.S. 32:900;

e. address of and specification on classrooms utilized to conduct the classroom course, including room size and capacity as determined by the state fire marshal or local authority;

f. completed driving school instructor application package for each instructor;

g. course specifications as defined in this Subchapter;

h. copies of unit tests and final examination;

i. lesson plan for the behind the wheel course which outlines the stages of the course based on the student's progression and specifies the types of roads traveled, the traffic signals and signs encountered on the routes taken, and the average time frame students are exposed to various types of roads. Written documentation or GPS mapping may be included;

j. completed application package for third party tester certification.

B. Application for Instructor of a Driving School

1. An applicant for a driving school instructor license shall complete and submit the following:

a. application for instructor of a driving school (DPSMV 2148);

b. each applicant must successfully pass a fingerprint background check. The background check will be conducted in a manner set forth by DPS. Each applicant must pay the background check fee by a separate certified check or money order. The current fee is $26.

2. Once the applicant has successfully passed the background check, the following items shall be submitted to complete the process.

a. a valid teaching certificate or certificate of successful completion, as outlined in the qualifications.

3. Non-refundable $20 certified check or money order made payable to the DPS.

C. Licenses

1. Licenses shall be issued on a biennial basis. The initial license shall be valid from the date of issuance until December 31 of the following calendar year.

2. Licenses shall be nontransferable. In the event of a change of ownership, application for a new license shall be made and the old license shall be surrendered to the department before a new license will be issued to the new owner. The fee for the new license is $50 for each school location and $20 for each individual instructor payable as set forth and shall be submitted with the new application.

3. If a school license or instructor license is lost or destroyed, a duplicate will be issued for the application fee of $10 upon proof of the fact or, in the case of mutilation, upon surrender of such license.

D. License Fees

1. Every application for license shall be accompanied by a non-refundable application fee of $25 per year, collected biennially, per location and $10 per year, collected biennially, for each individual instructor per location for the school and a $26 background check fee per school employee/instructor involved in supervisory authority over the students.

2. These fees will be charged each time the license is renewed.

3. Licenses shall be renewed by December 31 on the year stated. If the completed application including all fees is not received by December 31, the license shall expire.

4. All fees shall be submitted in the form of a certified check or money order made payable to DPS. No personal or business checks will be accepted.

5. All license fees are non-refundable.

E. Renewal

1. Application for renewal of a license shall be made on the prescribed form, 90 days prior to license expiration, and accompanied by the appropriate fees.

2. The fees shall be submitted in the form of a money order or a certified check made payable to DPS. All renewal applications for privately owned schools shall be submitted to OMV before the close of business, October 1 of the expiration year.

3. Applications received after October 1 will be deemed untimely and may cause delay in renewal of the license. A school which has submitted an untimely renewal application and whose renewed license is not issued prior to December 31, shall not be authorized to conduct any classes after December 31, until the license is renewed.

4. Incomplete renewal applications may result in the license renewal being delayed or denied.

5. Background checks on owners, instructors and all employees involved in the supervision of students will be conducted upon license renewal.

6. Proof of continuing education for each instructor as outlined in this subchapter shall be submitted with the renewal packet.

7. The following documents shall be submitted as part of the renewal packet.

a. completed application for each school location;

b. completed application for each instructor;

c. completed application packet for any new instructors added;

d. certificate of insurance in the company name stating that all vehicles utilized in the behind the wheel course are currently insured and that upon cancellation or expiration, the department will be notified. This certificate shall be from the issuing insurance carrier, not the agency; identify (by description and vehicle identification number) the vehicle(s) covered. The limits shall be from a company authorized to do business in this state in the amount of at least the minimum amount required by R.S. 32:900;

e. proof of each instructor's successful completion of continuing education;

f. certified check or money order for appropriate fees;

g. each owner, instructor and any other employee involved in supervision of the students must successfully pass a fingerprint background check. The background check will be conducted in a manner set forth by DPS. Each applicant must pay the background check fee by a separate certified check or money order. The current fee is $26.

8. Any driving school that fails to renew his license/contract within six months of expiration shall be required to begin the initial application process again.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:402.1(A)(1) AND R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 38:

§147. General Regulations for Private Driving Schools

A. All approved private driving schools shall operate from an office in the following manner.

1. A school shall have a primary location where records shall be kept in a secure manner. Records shall be available for inspection between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Only schools which are currently licensed by June 30, 2012 and currently maintain records at the owner's residence are allowed to do so. If the physical location where records are kept is the owner's residence, the owner agrees to make the records available for inspection. All schools licensed from this point forward will be required to maintain a primary location for the records.

2. A classroom location may be obtained by renting space from hotels or other facilities in the form of a conference room or a meeting room for the conduction of classes. No classes are to be held in a hotel room that is designed for temporary residence. No facilities may be rented or leased from an establishment that restricts entrance by age (no minors). No driving school shall be allowed to conduct business or instruction from a private residence. Any classroom located on private property shall not be attached to a private residence.

3. DPS shall first approve any name to be used by a driving school. No school shall use the word "state" or "education" in a part of the school name.

4. A school shall not use any name other than its approved name for advertising or publicity purposes, nor shall a school make any false or misleading statements in any of it advertisements or publications. No school shall advertise or imply the school is "accredited" by any national or state organization for driving schools, when such accreditation does not exist.

5. No driving school shall advertise in any way until such time as the school is properly licensed by DPS.

6. The school's license shall be conspicuously displayed in the business during operational hours. In the case of rented or leased space, the license shall be displayed at that location while the space is being utilized by the driving school.

7. Prior approval is required for any classroom or business address change. OMV shall be notified 30 days prior to any change in address to allow for site inspection and verification.

8. A driving school applying to open a branch office in an additional location shall submit the prescribed forms set forth in the rules and regulations, with the application fee of $25 for each additional location. Classes cannot be conducted at the new location until the new license is issued.

9. All instructors shall be approved by DPS and obtain an instructor's license prior to providing instruction.

10. In the event a school owner or instructor license is revoked, that person shall not be involved in the administrative duties of the school.

11. All schools shall post a sign within the classroom stating that anyone who wishes to file a complaint against the school may contact the Training and Certification Unit at the Office of Motor Vehicles, P.O. Box 64886, Baton Rouge, LA, 70896, Attn.: Training and Certification Unit.

12. Driving schools may employee instructors currently licensed by DPS without repeating the application process. A notification of employment of a currently licensed instructor (DPSMV 6711) form shall be completed and submitted along with an application fee of $10, in lieu of the instructor application packet.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:402.1(A)(1) and R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 38:

§148. Secondary/Alternative School Driver Education Program

A. Qualifications for Secondary Schools and Instructors

1. Schools. To provide a driver education program, the school shall:

a. have an established physical school location;

b. submit a complete application package as outlined in this Subchapter.

2. Instructor. To be a classroom instructor the applicant shall:

a. be a citizen of the United States or be lawfully present in the United States, a resident of the state of Louisiana, and at least 21 years of age;

b. hold at least a valid class "E" Louisiana driver's license;

c.i. currently hold a valid teaching certificate with the following specialized education courses:

(a). general safety education course—three hours

(b). basic information course in driver education —three hours;

(c). curriculum innovations and instructional devices course—three hours—in-depth study of driver education and traffic safety curricular materials and familiarization with related instructional devices;

(d). first aid—one hour; or

ii. certificate of completion of the driver education certification program mandated and approved by DPS;

d. at the time of application, within the last three years, shall not have the convictions listed below or a combination of three or more single convictions listed below:

i. driving under suspension;

ii. two or more convictions for seatbelt violations;

iii. two or more citations for following too closely;

iv. one or more citations for child restraint violations;

v. three or more exceeding the posted speed limit;

vi. one or more citations for texting while driving;

e. not have been convicted of any felony offenses related to the operation of a driving school;

f. not have been convicted of a crime involving violence, dishonesty, deceit, indecency or an offense involving moral turpitude within the last 10 years;

g. not be convicted of or be under indictment or under bill of information for any crime enumerated in R.S. 15:587.1(C) (the Child Protection Act);

h. does not now own or is a previous owner of a driving school whose license has been revoked;

i. has not provided false information with the application or withheld documents or information from representatives of DPS;

j. not have been convicted of any misdemeanor or felony offenses involving controlled dangerous substances or driving while intoxicated within the last ten years.

3. Qualifications for Eight Hour Behind the Wheel Instructor. To be an eight hour behind the wheel instructor the applicant shall:

a. meet all of the qualifications for a classroom instructor;

b. hold at least a valid Class "D" Louisiana chauffeur's license;

c. not be missing an eye, hand or foot; and

d. have visual acuity not worse than 20/40 in each eye, with or without corrective lenses and not have any vision restrictions which indicate less than 20/40 vision or have physical impairment restrictions on his driver's license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:402.1(A)(1) and R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 38:

§149. Application Process and Fees for Secondary/Alternative Schools and Instructors

A. Application Process for Individual Secondary Schools in which the Driver Education Program is Controlled at the School Level. The individual school must submit the following:

1. completed initial application for secondary school driver's education program (DPSMV6714);

2. non-refundable $50 application fee in the form of certified check, money order or school check from a public school system made payable to the DPS;

3. lesson plan containing the following:

a. beginning and ending time of each class day, lunch and break periods included;

b. number of class days in the course;

c. material sources;

d. time periods assigned to each topic;

e. how information is presented, i.e. handouts, videos, lectures;

f. title of audio/visual sources to be utilized;

4. current e-mail address;

5. certificate of insurance in the school/system's name stating that all vehicles utilized in the behind the wheel course are currently insured and that upon cancellation or expiration, the department will be notified. This certificate shall be from the issuing insurance carrier, not the agency; identify (by description and vehicle identification number) the vehicle(s) covered. The limits shall be from a company authorized to do business in this state in the amount of at least the minimum amount required by R.S. 32:900;

6. completed driving school instructor application package for each instructor;

7. class schedules including defined break and lunch periods—shall specify the time frame for breaks and lunch;

8. copies of unit tests and final examination;

9. lesson plan for the behind the wheel course which outlines the stages of the course based on the student's progression and specifies the types of roads traveled, the traffic signals and signs encountered on the routes taken, and the average time frame students are exposed to various types of roads. Written documentation or GPS mapping may be included.

B. Application process for parish school system driver education programs which are controlled at the system level, not the individual school level:

1. completed initial application for parish-wide driver education program application (DPSMV6713);

2. systems which control the driver education program at the system level will not be required to pay the school license fee;

3. Paragraphs 2 through 9 listed above in the individual secondary school application process.

C. Application for Instructor of a Driving School. Applicants for a driving school instructor license shall complete and submit the following:

1. completed secondary school driver education instructor application (DPSMV2148);

2. copy of valid teaching certificate indicating completion of driver education courses outlined above or certificate of completion of the driver education certification program mandated and approved by DPS;

3. each applicant must successfully pass a fingerprint background check. The background check will be conducted in a manner set forth by DPS. Each applicant must pay the background check fee by a separate certified check or money order. The current fee is $26;

4. non-refundable application fee $20 certified check or money order made payable to DPS.

D. Licenses

1. Licenses shall be issued on a biennial basis. The initial license shall be valid from the date of issuance until August 31 of the following calendar year.

2. The school license shall be nontransferable. In the event of a change of ownership, application for a new license shall be made and the old license shall be surrendered to the department before a new license will be issued to the new owner. The fee for the new license is $50 for each school location and $20 for each individual instructor payable as set forth and shall be submitted with the new application.

3. If a school license or instructor license is lost or destroyed, a duplicate will be issued for the application fee of $10 upon proof of the fact or, in the case of mutilation, upon surrender of such license.

E. License Fees

1. Every application for license shall be accompanied by a non-refundable application fee of $25 per year collected biennially per location and $10 per year per year collected biennially for each individual instructor for the school and a $26 background check fee per school employee involved in supervisory authority over the driver education students.

2. These fees will be charged each time the license is renewed.

3. Licenses shall be renewed by August 31 on the year stated. If the completed application including all fees is not received by August 31, the license shall expire.

4. All fees shall be submitted in the form of a certified check, money order or school check from public schools made payable to DPS. No personal or business checks will be accepted.

5. All license fees are non-refundable.

F. Renewal

1. Application for renewal of license shall be made on the prescribed form, 90 days prior to license expiration, and accompanied by the appropriate fees.

2. The fees shall be submitted in the form of a money order, certified check or school check from a public school made payable to DPS.

3. All renewal applications for secondary schools shall be submitted to OMV before the close of business, June 1 of the expiration year.

4. Applications received after June 1, will be deemed untimely and may cause delay in renewal of the license. A school which has submitted an untimely renewal application and whose renewed license is not issued prior to August 31, shall not be authorized to conduct any classes until the license is renewed.

5. The following documents shall be submitted as part of the renewal packet:

a. completed application for each school location or school system;

b. completed application for each instructor;

c. completed application packet for any new instructors added;

d. certificate of insurance in the company name stating that all vehicles utilized in the behind the wheel course are currently insured and that upon cancellation or expiration, the department will be notified. This certificate shall be from the issuing insurance carrier, not the agency; identify (by description and vehicle identification number) the vehicle(s) covered. The limits shall be from a company authorized to do business in this state in the amount of at least the minimum amount required by R.S. 32:900;

e. proof of each instructor's successful completion of continuing education;

f. certified check, money order or school check for appropriate fees;

g. each applicant must successfully pass a fingerprint background check. The background check will be conducted in a manner set forth by DPS. Each applicant must pay the background check fee by a separate certified check or money order. The current fee is $26.

6. Any school that fails to renew his license within six months of expiration shall be required to begin the initial application process again.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:402.1(A)(1) AND R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 38:

§150. Regulations and Policies for Secondary and Alternative School Driver Education Courses

A. General Regulations for Secondary and Alternative Schools. All approved secondary and alternative schools shall operate from an office in the following manner.

1. If oversight for the driver education program is provided at the system level, not the individual school level, the system shall determine the location where the records shall be kept. All records shall be maintained at a central location and shall be kept in a location which provides DPS access to the records during daytime hours.

2. In school systems where the oversight for driver education is provided at the individual school level, the records shall be maintained at the individual school and shall be made available to DPS during daytime hours.

3. Classroom instruction shall be provided at an approved and certified driving school. Home study is not permitted for any portion of the classroom instruction.

4. The school superintendent/principal shall share the responsibility for all acts performed by instructors or employees that are within the scope of employment and which occur during the course of employment.

5. Principals/superintendents will be responsible for ensuring instructors complete continuing education courses in an effort to stay abreast of the latest trends and standards of driver education.

6. Individual secondary schools shall apply to DPS for the approval of its driver education program prior to the administration of same.

7. In parishes where one or more instructors provide driver education instruction for all schools in the parish, the parish school system shall apply for the school license to provide driver education. The instructor shall be issued a parish-wide license for instruction.

8. Secondary schools shall have the option to provide a six hour pre-licensing course.

9. Secondary schools shall have the ability to administer road skills tests to students who are currently enrolled in its school system or have completed the system's driver education course.

10. Secondary schools shall utilize the same curriculum as privately owned driving schools.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:402.1(A)(1) AND R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 38:

§151. Regulations for All Driver Education Providers

A. General Regulations. The rules and requirements listed in the remainder of this section shall apply to both private driving schools and driver education programs administered by secondary and alternative schools.

1. No employee of DPS, whose duties relate in any way to the issuance of a driver's license, shall be connected with any driving school.

2. The school shall notify DPS by e-mail at ladrivingschools@dps.la.gov of any change of telephone number or e-mail address within 14 calendar days of such change.

3. Any additional instructors or substitute instructors hired during the license period shall be properly licensed prior to administering any instruction.

4. The school shall agree to permit DPS representatives to inspect the school and shall make available to DPS, when requested to do so, all information and records pertaining to the driver education program. Upon request, the school shall provide photo copies of the school records required by DPS.

5. The school shall not, by advertisement or otherwise, state or imply that upon completion of a course or the road skills test, the securing of a driver's license is guaranteed or assured.

6. The school shall maintain adequate standards of instruction, qualified instructors, and equipment sufficient to adequately maintain the school or classes.

7. No instructor will be permitted to accompany any student into any examining office rented, leased or owned by DPS, for the purpose of assisting student in taking a driver's license examination.

8. No instructor will be permitted to loiter, advertise or personally solicit any individual on the premises rented, leased or owned by DPS, and operated for the purpose of conducting state driver's license examinations.

9. No school instructor shall be permitted to use the space provided on the premises of any office rented, leased or owned by DPS, for parallel parking or any other behind the wheel instruction during normal OMV business hours.

10. Each school shall maintain a minimum of one instructor properly licensed and trained to administer road skills tests.

11. Classroom instruction shall be provided in an approved driving school. Home study is not permitted for any portion of the classroom instruction.

12. A school that is operating at a location without a current license may have its license revoked.

13. All grievances or complaints made against the school and/or instructor shall be addressed within 14 business days and the resolution shall be documented

14. The school shall notify OMV within 14 days of any licensed instructor who leaves the employment of the school. The instructor license shall be returned to OMV for cancellation.

15. A licensed owner or instructor who is formally charged or convicted for any offense which would disqualify him, shall notify OMV in writing within 14 days of arrest. Failure to notify OMV may result in suspension or revocation of the license.

16. Driver education instructors shall participate in and provide evidence of successful completion of at least two of the following to obtain credit for continuing education on an annual basis. Credit shall be given only for courses that were completed during the appropriate licensing period:

a. post-secondary course that pertains to driver education as provided by an accredited college or university. A passing grade is required;

b. an approved defensive driving instructor development course;

c. a course provided by national, state, or regionally sponsored in-service workshops, seminars, or conferences that pertain to subject matters that relate to the practice of driver education or teaching techniques;

d. a course that pertains to subject matters relative to driving safety;

e. standard first aid or CPR certification.

17. In the event of a school closure, either by voluntary measures or by action of the Department of Public Safety and Corrections, Public Safety Services, refunds will be issued upon request. All refunds shall be processed within 30 days after the effective date of termination or request, whichever is sooner. Proof of refund shall be the refund document or copies of both sides of the cancelled check and shall be on file within 20 days of the effective date of refund action. All refund checks shall identify the student to whom the refund is assigned.

B. Suspension, Revocation and Penalty Assessment

1. All regulations outlined in this Chapter shall be adhered to by the school and its employees. DPS may suspend or revoke any driving school license or instructor license issued under these rules and regulations upon discovery of satisfactory evidence of violations. If the violation involves the owner of the school or other management staff, then the driving school will be assessed penalties or the license may be suspended or revoked. If the violation involves the instructor, then the instructor may be fined or the instructor's license may be suspended or revoked, depending on the nature of the violation. Fines may be assessed up to $500. If the fine is not paid, the license shall be revoked.

2. Any instructor whose driving privileges have been suspended or revoked is subject to having his instructor's license suspended or revoked.

3. The license of any instructor charged by indictment or bill of information for any crime enumerated in R. S. 15:587.1(C) (the Child Protection Act) shall immediately be suspended and shall remain suspended until such time as a final disposition of the charges are received by DPS.

C. Appeal Rights

1. Notice of License Denial and Appeal

a. An applicant who is denied a driving school or instructor license shall be notified in writing by DPS. Such notice shall comply with R.S. 49:955(B). Upon receipt of such notice, the applicant shall have two options.

i. Option 1-Informal Review. The applicant shall have 10 business days to request an informal review of documentation and evidence provided by the applicant setting out reasons the denial should be considered improper. Should the applicant remain dissatisfied with DPS' decision following this review process, the applicant may appeal this decision within 20 business days of receipt of DPS' decision by requesting an administrative hearing. Any such hearing requested by an applicant shall be scheduled and conducted in accordance with the Administrative Procedure Act pursuant to R.S. 49:950 et seq.

ii. Option 2-Formal Appeal. The applicant may appeal the denial by the department in writing within 30 days of receipt of DPS' decision by requesting an administrative hearing. Any such hearing requested by an applicant shall be scheduled and conducted in accordance with the Administrative Procedure Act pursuant to R.S. 49:950 et seq.

b. A request for an administrative hearing shall be made in writing to DPS. If the request for a hearing is not submitted timely, the denial shall become final.

2. Notice of Suspension, Revocation or Fine

a. An applicant whose permit is revoked, suspended, or who is issued a fine shall be notified in writing by DPS. Such notice shall be in compliance with R.S. 49:955(B). Any notice of immediate suspension or revocation shall be in accordance with R.S. 49:961.

b. Upon receipt of such notice, the applicant shall have 10 business days to request, in writing, an informal review of DPS' action. The applicant should provide DPS with relevant information which might have some bearing on the department's action. The applicant should include any documents or other evidence he wishes the department to consider.

3. General Provisions

a. Upon receipt of a request for any review, the deputy secretary or his designee shall review DPS' action considering the information submitted, and affirm, modify, or reverse DPS' action. Written notice of DPS' decision to affirm, modify or reverse DPS' action shall be provided to the applicant.

b. Except as otherwise provided by these rules, any notice shall be served by certified mail, return receipt requested, or hand delivered to the permanent address that is provided in the application, or latest amendment thereto, on file with DPS. If any incorrect or incomplete address has been supplied to DPS by the applicant or applicant, such that service cannot be successfully completed, or the applicant or applicant fails to accept properly addressed certified mail, notice shall be presumed to have been given.

c. Any fine levied by DPS which is adjudicated to a final administrative judgment shall be paid within 14 calendar days of said judgment becoming final. Failure to pay such a fine within 14 calendar days may serve as grounds to suspend or revoke any license or contract under this part.

d. In cases of serious violations of the law or these rules, or in situations in which the law calls for prompt suspension or revocation, or violations which present a danger to the public health, safety or welfare, DPS may provide notice in accordance with R.S. 49:961. Such notice shall be promptly documented and confirmation in writing shall be provided to the applicant.

e. Any request for an administrative hearing shall be made in writing and sent to DPS within 30 days. If no request for a hearing is timely made, the action and/or penalty shall become final.

D. Records Regulations

1. All schools shall make available records and necessary data required for licensing for inspection by authorized DPS representatives.

2. All records and necessary data pertaining to the operation of the school shall be maintained in the office in chronological class order and shall be available for inspection upon request by any law enforcement officer or DPS representative. All records shall be maintained for a minimum of five years. Records shall include, but are not limited to:

a. a file including the name, address and contact information of all guest lecturers;

b. a file on all instructors containing the following documentation:

i. copy of instructor's license;

ii. employment records, including time and attendance records, address and contact information;

c. a permanent record of lesson plans and other resources utilized for classroom instruction. Written documentation of the lesson plan for the behind the wheel portion of the course;

d. class schedules and sign in rosters from classes held;

e. copies of all written complaints and grievances filed with the school along with written documentation of the resolution.

3. Every driving school shall maintain the following records on the individual student who is administered either the 38 hour driver's education or six hour pre-licensing course:

a. official name and address of the school shall be printed on all student documentation;

b. completed enrollment form which shall include, but is not limited to, the following:

i. student's legal name, date of birth as taken from the birth certificate or other acceptable primary document as defined by DPS, telephone number and physical address (other than P.O. Box);

ii. parental/guardian consent for minor applicants, including identification presented;

iii. date of enrollment;

iv. any funds received from, or on behalf of, a student;

v. dates of classroom instruction;

c. completed driving school temporary instruction permit which includes:

i. behind the wheel instruction schedule including the instructor's printed name and his instructor license number;

ii. beginning and completion dates of the course;

iii. vehicle (s) driven during the course;

iv. mileage accumulated during the student's course;

v. grades of tests administered;

vi. final grade earned;

d. date instruction terminated, if applicable;

e. copy of completion certificate.

4. Every driving school shall maintain a class schedule and shall notify DPS of the classes scheduled, including the type of course to be administered. This schedule may be submitted quarterly, bi-annually or annually. DPS shall be notified of any changes in the schedule after submission to DPS.

E. Minimum Course Standards Policy

1. No more than 40 students per classroom shall be allowed in a driver education course. In the case of make-ups, an additional 5 students may be allowed. Class size shall not exceed the maximum capacity for the room set by the state fire marshal or local regulations.

2. A minimum of one instructor is required for each classroom.

3. No more than eight hours of instruction, including unit tests or final examination, shall be conducted per day.

4. Administrative procedures, such as enrollment, shall not be included in instructional time.

5. Students shall not be supervised by any person who has not submitted to the background check required by these rules.

6. Visitors, other than parents/legal guardians or interpreters, shall not be allowed to loiter in the classrooms while classes are in session.

7. Classroom settings shall be conducive for learning.

8. Multiple classrooms shall be separated by solid walls which are made of materials that reduce noise transfer between classrooms.

9. Schools which share locations with other businesses shall take all means necessary to ensure the security and safety of minor students and shall ensure the location is free of interruptions during scheduled class times.

10. Students shall be provided with adequate break and lunch periods proportionate to instructional time.

11. Lunch periods shall not be considered as part of the instructional time for a driver education course.

12. Break times allotted shall not exceed 10 minutes per each 90 minutes of instruction.

13. All break periods shall be provided prior to the final examination.

14. Students may not leave the classroom during the final examination. Electronic devices (tablets, PDAs, cell phones) shall not be allowed in the classroom during examinations.

15. The 30 hour classroom course shall provide a minimum of 30 hours of classroom instruction. The formalized instruction, a minimum of 22 1/2 hours (75 percent), will consist of lecture, computer format and classroom discussion. The instruction provided with audio visuals may include films, slides, videos or demonstrations specifically designed to supplement the formalized instruction. A maximum of 7 1/2 hours (25 percent) may consist of audio visuals.

16. The six hour pre-licensing course shall provide a minimum of six hours of classroom instruction. The formalized instruction, a minimum of four and half hours (75 percent), will consist of lecture, computer format and classroom discussion. The instruction provided with audio visuals may include films, slides, videos or demonstrations specifically designed to supplement the formalized instruction. A maximum of one and half hours (25 percent) may consist of audio visuals.

17. The 30 hour classroom course and the six hour pre-licensing course shall not be conducted in the same classroom during the same time frame.

18. OMV reserves the right to attend any classroom course provided by the school to ensure full compliance with administrative code and course content.

19. Unit tests shall be administered to measure the effectiveness of instruction during the classroom course. A final examination, approved by DPS, shall be administered to all students at the completion of the course. Students may not be given credit for the classroom course unless they score at least 80 percent on the final examination. Test questions may be short answer, multiple choice, essay or a combination of these forms, but shall be adequate to demonstrate transfer of knowledge.

20. Students shall score at least 70 percent on the eight hour behind the wheel course to receive a completion certificate for the behind the wheel course.

21. No more than two students shall be allowed in a dual controlled vehicle that is being used for behind the wheel instruction, provided the vehicle is equipped for that many passengers. Only the student driver and the driving instructor shall be allowed in the front seat of such vehicle. Students shall not receive credit for riding time.

22. Each student shall be provided a minimum of eight hours of actual behind the wheel instruction.

23. The eight hour behind the wheel course shall be completed within 120 days of completion of the 30 hour classroom course.

24. Behind the wheel instructors shall not utilize electronic communication devices during a driving session.

25. Behind the wheel instructors shall remain awake and alert during the student's driving session.

26. The behind the wheel instruction shall expose the student to the different types of roadways as possible, based on the student's skill level progression. Additional time may include traveling the student's route to and from his home and school and traveling roadways where the student exhibits any weakness.

27. One hour of instruction on the following types of roadways is recommended:

a. rural roads;
b. city roads;
c. major highways;
d. interstate.

28. Documentation shall be made in the student's record when his skill level does not progress satisfactorily to expose them to the different types of roads.

29. When the student begins each driving session the beginning odometer reading on the vehicle shall be recorded. The ending odometer reading on the vehicle shall be recorded for each driving session. Once an odometer reading is captured for a student, that odometer reading cannot be recorded again for another student.

30. The files for the school shall reflect accurate odometer readings for each student. The mileage shall not fluctuate in the records or show moving backwards.

31. Once a student has begun the classroom course, the school may opt to begin the behind the wheel course and conduct the two simultaneously. Any school that administers the classroom course and behind the wheel course simultaneously shall include in the behind the wheel course documentation, the topics covered during the classroom course which are reinforced during the behind the wheel session.

F. Insurance and Safety Requirements

1. Motor vehicles utilized for behind the wheel training shall be less than 10 years of age and have less than 300,000 miles recorded on the odometer and shall be maintained in safe mechanical and physical condition at all times. Vehicles utilized should be of a type that is not intimidating to a novice driver.

2. Every motor vehicle used for behind the wheel driving shall be properly registered in Louisiana and display a current Louisiana inspection sticker. The vehicle shall be equipped with the following special equipment:

a. dual controls on the foot brake (and clutch on vehicles with manual transmission), capable of bringing the vehicle to a stop and otherwise equipped, in accordance with Louisiana laws;

b. rearview mirrors, one on each side of the vehicle; and

c. appropriate cushions for the proper seating of students when necessary.

3. Every vehicle used for behind the wheel driving shall contain a conspicuously displayed, securely fastened sign to the rear stating "student driver." A sign bearing the name of the driving school under which it is licensed may be used in lieu of the student driver sign. The sign shall be in plain view and shall have contrasting letters not less than 3 1/2 inches in height, readable from a distance of not less than 100 feet. A decal or sign listing the school name, address and phone number shall be displayed on each side of the vehicle.

4. DPS shall be advised via e-mail at la.driving.schools@dps.la.gov within 14 days of a vehicle that is removed from service and shall be provided the required information on replacement vehicles.

G. Behind the Wheel Driving Requirements

1. The temporary instruction permit shall be issued to each individual student by the driving school on a form approved and provided by DPS, and is valid only during the behind the wheel training.

2. The student shall provide correct information in legible form on the front of the permit application. Applications shall be completed under the supervision and with the assistance of the instructor.

3. The student's birthday shall be carefully checked, since it is unlawful to issue a school instruction permit to anyone who has not reached his/her fifteenth birthday. The form may be completed upon enrollment in the class; however, it may not be utilized until the student has reached the age of 15 and begins the behind the wheel course.

4. All questions on the front of the permit application shall be answered truthfully and correctly by the student. The student should sign with usual signature, not necessarily his/her full name. The application shall be completed in ink.

5. If the applicant is a minor, it is mandatory that the domiciliary parent sign the application in the presence of a notary public or the instructor/owner.

6. In case of a minor, if both parents are deceased, or have lost custody, the application shall be signed by the applicant's legal guardian. The instructor shall require proof that the person is the legal guardian.

7. If a student answers "yes" to medical questions number 1 and/or number 2 listed on the temporary instruction permit the student shall be referred to DPS to be given a DPSMV-2032 medical examination form which requires completion by the student's physician. The student shall be instructed to submit the completed form with the permit application to OMV, Training and Certification Unit. OMV will approve or deny the issuance of the temporary instruction permit.

8. Before initiating behind the wheel instruction, each instructor should take appropriate, practical action to assure that each student has no apparent visual or hearing condition which could impair his ability to safely operate a motor vehicle.

9. Anyone applying for a behind the wheel course who has a special need, because of a physical or mental impairment, shall be referred to a driver rehabilitation specialist as defined in R.S. 32:401.

10. The temporary instruction permit shall be in the possession of the instructor and carried in the vehicle at all times while behind the wheel driving instruction is given. The permit is valid only for the length of the driving instruction and shall be presented upon request to any law enforcement officer.

H. Driver Education Completion Certificate Requirements

1. The driver education completion certificate is designed by DPS, and issued by a licensed school upon successful completion of a 38 hour course or a six hour pre-licensing course. These certificates will expire five years after the completion date.

2. Every school approved by DPS, shall be required to serially number and complete the uniform driver education completion certificate. Each certificate shall display a distinguishing raised seal, consisting of the driving school's name, affixed to the specified area of the form, not to obscure any of the required signatures.

3. The original driver education completion certificate shall be identical to the form approved by OMV and shall be given to the student to present to DPS as proof of compliance with the driver training requirement for a driver's license or learner's permit. A second copy is to be provided to the student and the third copy is to be maintained by the school for a minimum of five years from the date of course completion.

4. Upon request, schools shall provide to the student, photocopies or duplicates of driver education completion certificate for a minimum of five years from the date of course completion. Such duplicates shall be certified (signed and dated) by owner of the driving school.

5. All unissued driver education completion certificate shall be safeguarded at all times. The certificates shall be kept in a secure place under lock and key and only available to those representatives of the driving school authorized to issue such certificates and DPS representatives.

6. Every school shall maintain an ascending numerical accounting record of all certificates issued. The records and all unissued certificates shall be open for inspection to DPS or any law enforcement agency during normal business hours.

7. The course completion date shall be the date of or later than the completion date of both the classroom course and the behind the wheel course.

8. No certificate shall be issued until such time that the classroom and behind the wheel course has been completed.

9. Unissued lost or stolen certificates of completion shall be reported to DPS immediately. If a theft or suspected theft has occurred, the local law enforcement agency shall also be notified and a police report sent to the Office of Motor Vehicles immediately.

10. Schools shall complete a student assessment including any comments relevant to the student's proficiency and shall attach the assessment to the driver education completion certificate to advise the parent(s) of the student's driving proficiency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:402.1(A) (1) AND R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 38:

§152. Course Specifications

A. Every driving school shall furnish each student/parent with course specifications prior to the beginning of any instruction. The course specifications shall be submitted to OMV with the application package. The following information shall be contained in the course specifications:

1. the total fee for the requested course of instruction which shall cover all expenses including the cost of the original and at least one additional copy of the driver education completion certificate provided to each student;

2. the school's cancellation and refund policy;

3. the school's standards of required behavior including but not limited to:

a. an absolute prohibition against cheating as well as the consequences which will result if these standards are violated;

b. the school's policy on students' use of electronic communication devices in the classroom and during testing;

c. the school's policy pertaining to absence and rescheduling procedures;

4. the school's grading policy, indicating that a passing score of 80 percent on the classroom and 70 percent behind the wheel shall be accomplished to be issued a driver education completion certificate;

5. any additional charge for the use of a school vehicle in taking behind the wheel instruction or for picking up a student or taking him to his residence or destination;

6. explanation of instruction the student will receive including:

a. number of classroom instruction hours student will receive;

b. number of behind the wheel instruction hours the student will receive;

7. the school's grievance procedure, including the following statement: "Any grievance(s) not resolved by the school may be forwarded to the Department of Public Safety and Corrections, Public Safety Services, Office of Motor Vehicles, Attn.: Training and Certification Unit, P.O. Box 64886, Baton Rouge, LA, 70896-4886;"

8. identification of alternative testing techniques to be used for students with hearing, speech or learning disabilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:402.1(A) (1) AND R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 38:

§153. Curriculum Administration

A. The curriculum contained in this subchapter was obtained from documents provided by National Highway Traffic Safety Administration (NHTSA) for Novice Teen Driver Education and Training Administrative Standards and was prepared by Driving School Association of the Americas and meets the current recommended national standards.

B. The curriculum as provided in these rules shall be covered in its entirety.

C. The order in which the topics are presented and the manner in which they are presented are left up to the discretion and teaching strategies of each school. Each school will be responsible for utilizing its creative license to present the course in such a manner the students will absorb and retain the information presented. Media resources may be used to augment the program's curriculum. All media resources shall relate to the topic presented and shall not contain any offensive or inappropriate subject matter. A master list of media resources shall be maintained in the school's records.

D. Student Guide. The Louisiana Driver Guide for Class E/D License will include the curriculum utilized in the 30 hour classroom course and will be made available for students and/or schools to purchase from the department at a cost of $10 which will be utilized to defray the printing cost of the guide.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:402.1(A) (1) AND R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 38:

§154. Driver Education Curriculum

A. Upon enrollment of a minor student, the school shall conduct a parental responsibility segment with the parents, informing the parents of:

1. the content of the course;

2. parental responsibility;

3. determining the readiness of the teen to begin the process;

4. supervising the teen's driving to determine the teen's readiness to advance to the next licensing stage;

5. 50 hours supervised practice driving including 15 hours night time practice.

B. Course Introduction (instructional objective—to orient students to the class):

1. purpose and benefit of the course;

2. requirements for receiving course credit;

3. student course evaluation procedures.

C. Core Curriculum

1. Chapter 1 Introduction to Driving. This chapter will describe the requirements to obtain a Louisiana driver's license and general nature of the driving task in the complex Highway Transportation System (HTS), while recognizing the importance and seriousness of the highway safety problem. The many interactions of the three major elements of the HTS, roads, vehicles and people, result in a large number of diverse traffic situations and problems.

a. Louisiana process for earning the privilege to drive:

i. age requirements;

ii. organ donation;

iii. selective service;

iv. graduated license program.

b. Highway Transportation System

i. The traffic safety problem (instructional objective—to develop an understanding of the nature of the traffic safety problem and to instill in each student a sense of responsibility for its solution):

(a). identification of the overall traffic problems in the United States and Louisiana, as well as the local jurisdiction where the course is being taught;

(b). death, injuries and economic loss resulting from motor vehicle crashes in Louisiana; and

(c). five leading causes of motor vehicle crashes in Louisiana as identified by the Department of Public Safety and Corrections, Public Safety Services;

(i). careless and/or reckless operation;

(ii). failure to yield;

(iii). following too closely;

(iv). speeding;

(v). unknown/unspecified;

(vi). each year the current statistics can be obtained from http://datareports.lsu.edu.

c. Driving in the Highway Transportation System (instructional objective—understanding highway traffic systems and the driver's responsibilities)

i. Make-up of a complex system:

(a). number and types of elements;

(b). continuous interaction of elements;

(c). need for regulations and control.

ii. Number and types of traffic units:
(a). kinds of vehicles and its condition;
(b). characteristics of drivers;
(c). pedestrians and animals;
(d). traffic volumes and congestion.
iii. Number and types of highways:
(a). design features;
(b). conditions and maintenance;
(c). environmental settings.
iv. Number and types of traffic controls:
(a). signs and signals;
(b). roadway markings;
(c). written laws.

3. Chapter 2 Vehicle Components and Operation. What can a motor vehicle do or not do in a given situation? The more drivers know about a car's maneuvering and performance capabilities, the better they can handle emergencies. Drivers will also be better prepared to predict the probable actions of other drivers.

a. Proper use of safety restraint systems:
i. law of physics:
(a). momentum;
(b). inertia;
(c). kinetic energy;
(d). gravity;
(e). friction;
(f). force of impact;
ii. proper safety belt position;
iii. jurisdictional laws—driver responsible for compliance of all passengers in the vehicle

b. Safe and proper use of basic vehicle equipment:
i. control devices;
ii. instruments and warning indicators;
iii. devices that aid visibility;
iv. safety devices;
v. comfort devices;
vi. anti-theft devices;
vii. communication devices;
viii. traction control devices.

c. Safe and proper pre-trip checks:
i. maintaining your vehicle (instructional objective—a well maintained vehicle is safer to drive):
(a). vehicle inspection;
(b). preventive maintenance—brakes, tires, steering/suspension, under the hood;
(c). fuel economy—vehicle choice and maintenance, driving habits;
(d). planning a trip—preparing vehicle and yourself;
ii. friction:
(a). speed for conditions;
(b). effect of road surfaces on stopping;
(c). seasonal changes and road surfaces;
(d). tire types and conditions.

d. Vehicle Handling. Safe and responsible vehicle control:
i. controlling the vehicle safely and responsibly:
(a). hand position;
(b). visual tracking;
(c). steering control—oversteering and understeering;
(d). seating position;
(e). starting and accelerating;
(f). speed control;
(g). deceleration and braking—comparison of ABS systems, power brakes and standard actions;
(h). changing lanes;
(i). parking brake;
(j). parking;
(k). changing direction and turns;
(l). passing;
(m). following distance;
(n). right-of-way maneuvers;
(o). turns;
(p). cornering;
(q). highway and freeway driving;
(r). urban and rural driving;
ii. safe and responsible handling of the vehicle under various conditions:
(a). weight management;
(b). time management;
(c). space management;
(d). stopping distances;
(e). braking distances;
(f). following too closely;
(g). speed for conditions;
(h). effect of road surfaces on stopping;
(i). seasonal changes and road surfaces;
(j). tire types and conditions;
iii. safe and responsible driving to avoid crashes:
(a). crash avoidance habits and basic evasive maneuvers.

3. Chapter 3 Perception and Risk Management—to Develop Knowledge, Appreciation, and Skills Related to Perception and Risk Management and How They Contribute to Safe and Responsible Driving

a. Safe and proper observation skills:
i. what and where to observe and when:
(a). 360 degree vision;
(b). distance scanning and judgment;
(c). peripheral vision;
(d). blind spots;
(e), visual obstructions;
(f). limits of observation;
ii. how to observe:
(a). active attention;
(b). shoulder checks;
(c). peripheral vision;
(d). mirrors;
iii. visual search and scanning to detect potential hazards:
(a). distinguish hazards from typical occurrences;
(b). scanning patterns under all conditions;
(c). detecting potential path deviations;
iv. potential hazards of driving and effective responses:
(a). vehicle malfunctions;
(b). weather/environmental conditions;
(c). road conditions;
(d). railroad crossings;
(e). vehicle conditions;
(f). distractions inside the vehicle;
(g). distractions outside the vehicle;

(h). other road users—air turbulence from large vehicles;

(i). unpredictable driving behavior;

(j). driving error resulting in danger to self and to other road users;

(k). Detection and recovery from skidding and sliding—principles of skid control and slide control.

b. Effective decision making to ensure safe driving:

i. hazard perception, decision making, and judgment:

(a). scan, identifying problems, predicting outcomes, deciding action and executing decisions (SIPDE);

(b). using the SIPDE process—avoiding, separating and handling hazards, managing time, speed and space, following and stopping distance;

(c). trouble spots limiting use of SIPDE process—limited visibility, traction, space;

ii. using decision making skills to drive safely:

(a). evaluate whether or not to drive;

(b). anticipate what might happen;

(c). predict possible solutions;

(d). prioritize situations and solutions;

(e). make appropriate choices under pressure;

(f). identify consequences;

(g). make multiple decisions quickly;

(h). develop a hierarchy of responses to various situations and alternative responses.

4. Chapter 4 Traffic Laws. Without good traffic laws and enforcement, the safe and efficient movement of traffic on our highways would not be possible. Traffic laws are of little value if they are not understood and voluntarily followed.

a. Safety

i. Traffic laws for safety (instructional objective—familiarization with traffic and vehicle laws and to influence drivers to comply with laws on a voluntary basis):

(a). seat belt usage—child restraints;

(b). right-of-way rules;

(c). speed laws;

(d). special safety laws—DWI, implied consent, open container, post-collision procedures;

(e). texting/cell phone usage;

(f). driving while fatigued/under duress or stress;

(g). emergency vehicles;

(h). multi-lane highways—left lane usage.

ii. Compliance with traffic control devices as a foundation for safe and responsible driving—traffic control devices:

(a). signs;

(b). signals;

(c). markings;

(d). railroad crossings.

iii. Major traffic law violations:

(a). reckless homicide;

(b). reckless driving;

(c). driving under the influence of alcohol or drugs;

(d). driving without a license.

b. Other Issues

i. Other law violations:

(a). financial responsibility/compulsory insurance;

(b). littering;

(c). possessing, obtaining, or using a fraudulent driver's license, or identification card.

ii. Alcohol, other drugs, and driving:

(a). drug use and abuse—dangers, cautions, effects;

(b). alcohol and the driver—effects;

(c). responsibilities as a driver, passenger, host, person.

5. Chapter 5 Driver Behavior—to Develop Knowledge, Appreciation, and Skills Related to Driver Behavior and How It Contributes to Safe, Responsible, and Incident-Free Driving

a. Assessment and reactions:

i. accurate assessment of driving environments, road conditions and appropriate adjustment of driving behavior:

(a). adjusting driving behavior for different driving conditions;

ii. controlled emotional reactions related to driving:

(a). potential effects on driver decision making;

(b). recognizing internal cues and control responses;

iii. positive driving attitudes and behavior.

b. Personal factors and influence:

i. personal driving values and beliefs;

ii. motives that influence driving;

iii. how motives change under different circumstances;

iv. how values, beliefs, and motives influence attitudes toward driving.

c. Social factors and influence:

i. influence of advertising;

ii. social attitudes towards cars and driving;

iii. influence of other people's driving habits;

iv. peer pressure and driving.

d. Resisting negative pressures:

i. personal value of resisting negative pressures;

ii. resist negative informal pressures;

iii. resist negative media and commercial messages;

iv. entertainment media use of driving imagery.

e. Positive driving attitudes:

i. driving is a privilege not a right;

ii. overcoming negative motives;

iii. driving courteously;

iv. cooperative driving;

v. impact of driver behavior on other road users.

f. Responsible and informed decision making:

i. how formal rules of the road, common safe practices of road users, and informed decision making contribute to safe and responsible driving;

ii. approaches to decision making;

iii. importance of good decision making;

iv. consequences of poor decision making.

g. Environmentally conscious and efficient driving behavior:

i. fuel efficiency;

ii. mandatory emissions testing (inspection stickers);

iii. proper disposal of cars, fluids, batteries, and tires;

iv. littering;

v. planning safer and more efficient activities and routes;

vi. economic benefits of driving efficiently.

6. Chapter 6 Sharing the Road. To develop knowledge, appreciation, and skills to related to effectively interacting with other road-users and how it contributes to safe, responsible, and incident-free driving.

a. Cooperative driving:

i. sharing the road in a safe and considerate manner;

ii. understanding other road-users needs;

iii. passing safely;

iv. space management;

v. benefits of cooperative and courteous driving;

vi. pedestrians, animals and bicycles;

vii. sharing the road with school buses;

viii. sharing the road with motorcycles and mopeds;

ix. sharing the road with commercial vehicles;

x. sharing the road with law enforcement and emergency vehicles;

xi. cooperative interstate driving.

b. Appropriate communication with other road users:

i. communicating effectively with other road users;

ii. habits and attitudes related to effective communication:

c. consistently communicate driving intentions;

d. adjusting communication based on observation of the driving environment and other road users.

7. Chapter 7 Attention—to Develop Knowledge, Appreciation, and Skills Related to Attention and How It Contributes to Safe, Responsible, and Incident-Free Driving

a. Safe and responsible actions related to impaired driving:

i. types of impairment:

(a). drug;

(b). alcohol;

(c). fatigue;

(d). drowsy driving;

(e). illness;

(f). medication;

(g). mental stress;

(h). combination of multiple impairments;

ii. effects of impairment:

(a). impaired judgment;

(b). lack of attention/alertness;

iii. myths and facts related to impairment;

iv. consequences of impaired driving;

(a). personal and social consequences—responsibilities of a driver, passenger, host and person;

(b). legal and economic consequences.

b. Managed driver distraction:

i. distracted driving:

(a). distraction inside the vehicle;

(b). distractions outside the vehicle;

ii. managing attention:

(a). switching attention;

(b). divided attention;

(c). focused attention;

(d). sustained attention;

8. Chapter 8 Respect and Responsibility—to Develop Knowledge, Appreciation, and Skills Related to Respectful and Responsible Driving Attitudes and How They Contribute to Safe, Responsible, and Incident-Free Driving

a. Safe and Responsible Response to Emergency Situations

i. Responding to emergency situations:

(a). minor or major motor vehicle crashes;

(b). arriving at the scene of a crash;

(c). being stopped by a law enforcement officer;

(d). yielding to an emergency vehicle;

(e). vehicle malfunctions.

b. Leadership in Promoting Safe Driving

i. Being a safe, respectful, and responsible drive:

(a). being a leader in safety restraint use and promote it in others;

(b). being fit to drive and promote it in others;

(c). being caring and empathetic towards other road-users.

ii. Conflict avoidance regardless of fault:

(a). respecting other road-users' safety margins;

(b). avoiding road rage in yourself and others.

c. Respect for the Environment as it Relates to Operating a Vehicle

i. Environmentally conscious and efficient driving behavior:

(a). fuel efficiency;

(b). mandatory emissions testing;

(c). proper disposal of cars, fluids, batteries, and tires;

(d). littering;

(e). planning safer and more efficient activities and routes;

(f). economic benefits of driving efficiently.

d. Lifelong Learning Approach to Driving

i. The driver as a lifelong learner:

(a). factors that contribute to changes in driving skill;

(b). changing motor vehicle technology;

(c). changing driving practices and laws;

(d). the aging driving population.

9. Chapter 9 Defensive Driving:

a. five leading causes of collisions:

b. basic maneuvers for avoiding collisions:

i. tactical maneuvers;

ii. mental skills;

c. major driving errors:

i. compensating for another driver's error;

d. counter measures for driver physical conditions:

i. fatigue;

ii. illness;

iii. physical impairments;

iv. stress;

v. trip fatigue.

10. Chapter 10 Summation and Review—Comprehensive Summation of Unit(s)/Unit Test(s) and Final Examination

D. Eight Hour Behind the Wheel Curriculum. The behind-the-wheel portion of the curriculum will be limited to no more than two hours behind the wheel for each student daily, unless the school has requested a waiver to provide up to four hours of instruction daily. There shall be no more than two students in the vehicle with the instructor. Upon completion of the behind the wheel portion a skills assessment shall be performed by the instructor. A road skills test shall be administered and the student shall attain a score of 70 percent or more to receive a certificate of successful completion.

1. Practical instruction shall include, at a minimum, the demonstration of and actual instructions in the following maneuvers:

a. vehicle checks:

i. pre-trip vehicle inspection—outside/inside vehicle;

b. turning skills:

i. steering;

ii. turn signals;

c. intersection awareness:

i. traffic signals;

ii. driving through;

iii. stops;

iv. right of way laws;

d. lane changes;

e. signs, lanes, and signals;

f. traffic signals;

g. space management;

h. S.I.P.D.E. process;

i. parking skills;

j. reversing skills;

k. turnabouts;

l. city driving;

m. expressway;

n. areas of high risk:

i. shared left turn lane;

ii. median crossover;

iii. service roads;

iv. off-road recovery;

v. head-on collisions;

vi. poor weather;

vii. skid recovery;

viii. controlled braking;

ix. night time driving;

o. railroad crossings;

p. emergency vehicles;

q. school buses;

r. breakdown/collision.

2. The instructor shall gauge and provide feedback relative to the driver's proficiency:

a. observation;

b. communication;

c. speed adjustment;

d. vehicle positioning;

e. time and space management;

f. hazard perception.

3. Student Assessment. During the last driving session with the student, the instructor shall perform a skills test to determine the student's ability to safely operate a vehicle. A score of 70 percent shall be attained to successfully pass the driver education course.

4. Upon completion of the eight-hour behind the wheel course, the instructor shall complete an in-depth assessment of the student's performance over each maneuver and skills covered above. The assessment shall be provided to the student and parent (if a minor) as a tool to continue driving instruction:

a. pre-trip preparation;

b. backing up;

c. accelerating and braking;

d. left turn;

e. right turn;

f. proper lane usage;

g. lane change;

h. obeying traffic signs and signals;

i. stopping.

5. The driver education completion certificate shall be completed when a student has attained a score of 80 percent or better on the written knowledge test and a score of 70 percent or better on the eight hour behind the wheel portion of the course.

E. Six Hour Pre-Licensing Course

1. The pre-licensing course requires 6 hours of classroom instruction covering the topics outlined above under Subsection I, "Program of Instruction/Course Content." No more than 1 1/2 hours (25 percent) of the course may consist of audiovisual instruction. A minimum of 4 1/2 hours (75 percent) shall consist of formalized instruction which may be a combination of lecture, computer format plus classroom discussion. The audiovisuals may include such aids as films, slides or videos specifically designed to supplement the formalized instruction.

2. Six Hour Curriculum. The six hour pre-licensing course shall utilize a condensed version of the 30 hour classroom course and shall cover the basic components of each chapter outlined in the 30 hour classroom course.

3. Comprehensive Summation of Unit(s)/Unit Test(s) and Final Examination. Unit tests for each chapter and the final examination scores shall be averaged to attain the final grade for the course. The student shall attain a grade of 80 percent or more to successfully complete the course.

4. Driver Education Completion Certificate. The driver education completion certificate shall be issued when a student has attained a score of 80 percent or better on the written knowledge test.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:402.1(A) (1) AND R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 38:

§155. Third Party Tester/Examiner Requirements

A. Act 307 of the 2011 legislative session amended R.S. 32:408 to require all driver education providers to become certified as third party testers by June 30, 2012.

B. All persons seeking to become certified by and contract with DPS to be a third party tester to administer the road skills test pursuant to R.S. 32:408 shall meet the following requirements:

1. successfully complete an OMV sanctioned examiners course;

2. meet all qualifications of a driving school owner as outlined in §145, Qualifications for Private Driving School Owners and Instructors;

C. Qualifications for a Third Party Tester Examiner

1. An examiner shall meet all requirements for a behind the wheel instructor listed in this part in addition to the following:

a. successful completion of the Office of Motor Vehicle certified examiner training course.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:402.1(A) (1) AND R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 38:

§156. Application Process and Fees for Third Party Testers/Examiners

A. Each person requesting to be certified by and contract with DPS as a third party tester shall submit the following:

1. completed third party tester application for class D and E driver's license;

2. certificate of insurance as outlined in this Subchapter;

3. completed application for examiner license;

4. non-refundable $50 annual application fee for each tester location, which shall be collected biennially and a $25 non-refundable annual application fee for each examiner, which shall be collected biennially, in the form of a money order, certified check or public school check made payable to DPS;

5. If the applicant is not a currently licensed driving school owner or instructor, each applicant must successfully pass a fingerprint background check. The background check will be conducted in a manner set forth by DPS. Each applicant must pay the background check fee by a separate certified check or money order. The current fee is $26.

6. If the applicant is not a currently licensed driving school owner, all documents required to verify that the applicant meets the qualifications for a driving school owner as outlined in this part, must be submitted.

B. Each applicant for third party examiner certification shall submit the following:

1. completed application for third party examiner certification;

2. If the applicant is not a currently licensed driving school instructor, each applicant must successfully pass a fingerprint background check. The background check will be conducted in a manner set forth by DPS. Each applicant must pay the background check fee by a separate certified check or money order. The current fee is $26.

3. If the applicant is not a currently licensed driving school instructor, all documents required to verify that the applicant meets the qualifications for a driving school owner as outlined in this part, must be submitted.

C. Renewal

1. The renewal schedule is December 31 each year for privately owned facilities and August 31 for secondary school facilities.

2. Application for renewal of certification shall be made on the prescribed form, accompanied by a non-refundable fee of $100 for each location and $50 for each individual examiner certificate, in the form of a money order or a certified check made payable to DPS. No personal or business checks will be accepted.

3. All renewal applications for privately owned schools shall be submitted to the Office of Motor Vehicles before the close of business, October 1, of the renewal year. All renewal applications for secondary and alternative schools shall be submitted to the Office of Motor Vehicles before the close of business, June 1, of the renewal year.

4. All renewal applications for third party testers and examiners which are licensed driver education providers shall be submitted in conjunction with the renewal for the driver education programs.

5. Applications received after the deadline, will be deemed untimely and may cause delay in renewal of the license. A third party tester which has submitted an untimely renewal application and who has not been certified prior to the expiration of the current certificate, shall not be authorized to conduct any road skills tests after that certificate expires, until the license is renewed.

6. Incomplete renewal applications may result in the license renewal being delayed or denied.

7. Background checks on owners and examiners will be conducted upon license renewal.

8. The following documents shall be submitted as part of the renewal packet:

a. completed application for each location;

b. completed application for each examiner;

c. certificate of insurance in the company name stating that all vehicles are currently insured and that upon cancellation or expiration, the Training and Certification Unit of Office of Motor Vehicles shall be notified. This certificate shall be from the issuing insurance carrier, not the agency; identify (by description and vehicle identification number) the vehicle(s) covered. The limits shall be $500,000 in auto liability and $1,000,000 in general liability;

d. a non-refundable fee of $50 for each location and $25 for each individual examiner certificate, in the form of a money order or a certified check made payable to DPS. No personal or business checks will be accepted.

e. completed background check forms and certified check or money order for $26 for each examiner and owner for facilities that are not driving schools.

9. Any facility that fails to renew his license/contract within six months of expiration, shall be required to begin the initial application process again.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:402.1(A)(1) AND R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 38:

§157. General Regulations for Third Party Testers

A. General Regulations

1. Upon approval of the application, all third party testers shall execute a contract with DPS authorizing them to administer the road skills test.

2. All third party examiners shall comply with and abide by all applicable statutes and regulations as well as all terms of the contract executed by the third party tester or third party examiner and DPS.

3. The school shall agree to permit DPS representatives to inspect the school and shall make available to DPS, when requested to do so, full information pertaining to any or all items of information pertaining to the testing operation. Upon request, the school shall provide photo copies of the school's records required by DPS.

4. A representative of the Federal Highway Administration and/or a DPS representative may conduct random examinations, inspections, and audits without prior notice.

5. The facility shall conspicuously display the issued certificate in the business during operational hours.

6. The tester and/or examiner shall not assist a person in obtaining a driver's license by deceptive practices.

7. The tester and/or examiner shall not state or imply, that upon completion of the road skills test, the securing of a driver's license is guaranteed or assured.

8. A DPS representative shall annually take a road skills test administered by the licensed third party examiner or test a sample of drivers who were examined by the third party to compare pass/fail results.

9. A third party tester/examiner shall not commence administering the road skills test until authorized to do so by DPS.

10. If at any time, a third party tester/examiner ceases to meet any requirement imposed by statute, the regulations, or the contract, the third party tester or the third party examiner shall immediately cease all testing.

11. Each student administered the road skills test shall be notified, prior to testing, that he is subject to being retested by the Office of Motor Vehicles at any time.

12. Private driving schools may administer road skills tests to the general public. Authorized Secondary School Driver education program providers shall administer road skills tests only to students enrolled in his school or his driver education program.

13. All third party examiners shall submit to and receive approval from DPS of a test route for use in the administration of skills testing to driver applicants for each location approved by DPS. The route shall be different from the routes used during any eight hour behind the wheel training.

B. Record Keeping

1. When the student requires the administration of a road skills test, the following information shall be maintained in the records, in date order, and shall be maintained for five years from the date of the road skills test:

a. completed application for road skills test (DPSMV2271);

b. completed disclosure of terms for applicants (DPSMV2273);

c. completed road skills driving test (DPSMV2005A);

d. completed test history form (DPSMV30059) furnished by DPS, if applicable;

e. completed road skills test certificate (DPSMV 2272), if applicable.

2. Every Third Party Tester shall maintain an ascending numerical accounting record of all certificates issued. The records and all unused road skills test certificates shall be opened for inspection by DPS during normal business hours.

3. The tester shall submit a monthly report of the skills test performed the previous month. The report shall list by week the number of skills tests given, the number of tests passed, the number of tests failed and total all categories listed above for the month. This report shall be submitted by the tenth of the month in the format and delivery method prescribed by OMV.

C. Safety and Insurance

1. A certificate of insurance shall be filed with DPS in the business name stating that all vehicles utilized in the road skills test administration are currently insured and that upon cancellation or expiration, the training and Certification Unit, Office of Motor Vehicles will be notified. This certificate shall be from the issuing insurance carrier, not the agency; identify (by description and vehicle identification number) the vehicle(s) covered. The limits shall be $500,000 in auto liability and $1,000,000 in general liability.

2. If the school is covered under a fleet policy and desires to add another vehicle to its fleet, it shall advise the insurance company to notify DPS, in writing that this unit (specifying the make, model and vehicle identification number) has been added.

3. The examiner may refuse to administer the test at any time he determines the condition of the applicant, roads, or weather to be unsafe.

D. Road Skills Test Certificate (DPSMV 2272) Requirements

1. Road skills test certificates shall be issued to applicants who successfully complete a road skills test as approved by the Office of Motor Vehicles.

2. No third party tester shall issue a certificate to a person who has not successfully completed the approved road skills test.

3. All blank road skills tests certificates shall be kept in a secure place under lock and key and only available to those representatives of the third party tester authorized to issue such certificates and DPS representatives.

4. Lost or stolen road skills test certificates shall be reported to DPS immediately. If a theft or suspected theft has occurred, the local law enforcement agency shall also be notified and a police report sent to OMV immediately.

E. Testing Preparation Policies

1. Each applicant shall be required to present proof of identity as outlined in the Office of Motor Vehicles policy along with the completed Test History form provided by the Office of Motor Vehicles.

2. The legal custodial/domiciliary parent/guardian of an applicant under the age of 18 shall sign a consent statement, provide proper identification and provide proof that he or she is the legal custodial/domiciliary parent/guardian.

3. All applicants shall sign the Disclosure of Terms form supplied by OMV. If the applicant is under the age of 18, the legal custodial/domiciliary parent/guardian shall also sign. This form shall be kept in the files.

4. The fee for a road skills tests shall not exceed $40. This shall cover all expenses including the cost of the original and one additional copy of the road skills test certificate provided to each applicant.

5. A copy of the certificate shall be placed in the applicant's file and maintained by the tester for a minimum of five years.

6. Only examiners which are certified adaptive driver trainers shall administer road skills tests to applicants that require adaptive equipment, including bioptic telescopic lenses.

F. Test Administration Policies

1. Only examiners who have been approved and certified by DPS shall administer road skills tests.

2. Only the applicant, examiner, examiner's supervisor, DPS representative, or interpreter, if necessary,

are allowed in the vehicle when a road skills test is being administered.

3. Each driving course layout shall include (as a minimum) the following for scoring purposes:

a. two stop signs (one with an obstructed view, if possible);

b. two traffic lights;

c. two lane changes;

d. two intersections, without a turn;

e. two reversal procedures—options:

i. into and out of a parking space;

ii. three point turn;

f. three left turns, one of which includes a left turn onto a multiple-lane roadway;

g. three right turns, one of which includes a right turn onto a multiple-lane roadway;

h. one parking maneuver.

4. In the administration of the road skills test, each third party examiner shall measure the performance of the applicant in each of the following operational skills:

a. observing;

b. communicating;

c. speed adjustment;

d. vehicle positioning;

e. time and space judgment;

f. hazard perception.

5. Standardized instructions shall be utilized when conducting a road skills test.

6. Approved scoring criteria shall be standardized, as determined and approved by DPS. If using a vehicle with a dual brake, it shall be an automatic failure of the test if the examiner has to use the brake for any reason.

G. Suspension, Revocation and Penalty Assessment

1. All regulations outlined in this chapter shall be adhered to by the school and its employees. DPS may suspend or revoke any third party tester certification or examiner license issued under these rules and regulations upon discovery of satisfactory evidence of violations. If the violation involves the owner of the school or other management staff, then the driving school will be assessed penalties or the license may be suspended or revoked. If the violation involves the instructor, then the instructor may be fined or the instructor's license may be suspended or revoked, depending on the nature of the violation. Fines may be assessed up to $500. If the fine is not paid, the license shall be revoked.

2. Any third party tester/examiner whose certification or license is denied, suspended, or revoked, or who was assessed a fine shall have the right to appeal the action in the same manner as provided in §151, Regulations for All Driver Education Providers, Subsection D.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:402.1(A)(1) AND R.S. 40:1461, and R.S. 32:408.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 38:

Family Impact Statement

1. The Effect of this Rule on the Stability of the Family. This Rule will have no effect on the stability of the family.

2. The Effect of this Rule on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. This Rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect of this Rule on the Functioning of the Family. This Rule will have no effect on the functioning of the family.

4. The Effect of this Rule on Family Earnings and Family Budget. This Rule will have no effect on family earning and family budget.

5. The Effect of this Rule on the Behavior and Personal Responsibility of Children. This Rule will have no effect on the behavior and personal responsibility of children.

6. The Effect of this Rule on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rules. This Rule will have no effect on the ability of the family or local government to perform the function as contained in the proposed Rule.

Public Comments

Interested persons may submit written comments or requests for public hearing on these proposed Rule changes to Laura Hopes, Department of Public Safety and Corrections, Public Safety Services, Office of Legal Affairs, at 7979 Independence Blvd., Suite 307, P.O. Box 66614, Baton Rouge, LA 70896. Comments will be accepted through close of business May 10, 2012.

Jill P. Boudreaux
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Driver's License General Requirements

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule will have no impact on state or local governmental unit expenditures. The purpose of the proposed rule is to implement Act 294 of the 2011 Regular Session pertaining to all driver education providers being consolidated under the Department of Public Safety and Corrections, public safety services, to implement Act 307 of the 2011 Regular Session relevant to the mandate that all driver education providers become certified 3rd party testers by June 30, 2012, and to implement Act 317 of the 2011 Regular Session which mandates that all driver education courses shall include information on the economic effects of littering. The implementation costs associated with Acts 294, 307 and 317 were reflected in the department's operating budget as appropriated in Act 12 of the 2011 Regular Session. This proposed rule change codifies the requirements of existing law.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is a minor anticipated direct material effect on revenue collections of the Office of Motor Vehicles (OMV) as a result of the proposed rule. Prior to the 2011 Regular Session, the OMV was authorized to collect fees for licensure of driving schools ($25 per year collected biennially, or $50 every two years), for processing applications of potential instructors of driving schools ($10 per year collected biennially, or $20 every two years), for licensure of third party testers for road skills testing ($50 per year collected biennially, or $100 every two years), and for duplicate replacement licenses in the event of loss or theft ($10).

Act 307 of the 2011 Regular Session requires any business or individual teaching driver education courses to also acquire licensure as a third party tester, effectively increasing the fee to each entity or individual not currently licensed as a third party tester by $50 per year. Act 294 of the 2011 Regular Session

authorizes the OMV to issue graduated infraction penalties for failure to follow regulations and policies outlined in the proposed rule (set by proposed rule at between $100 and $500). The OMV is unable to estimate the number of businesses and individuals that will seek licensure as a third party tester or that will commit infractions in any given year.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are additional costs associated with the proposed rule for students who are required to pay for their driver education courses and course materials. Fees charged to students for driver education instruction are capped at $50 per student in Act 307 of the 2011 Regular Session. Individuals or businesses currently offering driver education training that are not currently licensed as third party testers will be required to attain that designation at a cost of $50 per year. The OMV is unable to estimate the number of businesses and individuals that will seek licensure as a third party tester.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated direct material effect on competition and employment as a result of the proposed rule.

Jill P. Boudreaux
Undersecretary
1204#047

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections
Office of State Police
Applied Technology Unit

Breath and Blood Alcohol Analysis
(LAC 55:I.501, 507, 509, 511, 514, 515 and 516)

Under the authority of R.S. 37:3270 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Office of State Police, Applied Technology Unit, hereby proposes to amend sections 501, 507, 509, 511 and 515 and create sections 514 and 516 under Chapter 5 to add the Intoxilyzer 9000 to the approved product list of breath alcohol testing devices, to remove the current requirement for submitting information in the Intoxilyzer log book, and to amend the Hurricane Katrina and Rita language to provide for a general natural disaster provision.

The proposed rules would add the Intoxilyzer 9000 as an approved breath alcohol testing device in addition to the current Intoxilyzer 5000, remove the necessity of an Intoxilyzer log book and provide for a natural disaster provision.

Title 55
PUBLIC SAFETY
Part I. State Police
Chapter 5. Breath and Blood Alcohol Analysis Methods and Techniques
Subchapter A. Analysis of Breath
§501. Approval of Instruments to Conduct Blood Alcohol Analysis by Breath Sampling

A. After the Louisiana Department of Public Safety and Corrections has approved a prototype breath testing device as an acceptable model for chemical analysis in blood alcohol testing by breath sampling it shall be necessary for each individual instrument of the approved model to be inspected and approved for use by the Office of State Police, Applied Technology Unit, and an instrument certification form shall be maintained for each individual instrument in the applied technology unit. At least once every four months thereafter for the Intoxilyzer 5000 and once every six months for the Intoxilyzer 9000, each individual instrument shall be inspected, checked, and certified by the applied technology director, breath analysis supervisor, breath analysis specialist, breath analysis instructor specialist, or applied technology specialist of the applied technology unit and a recertification form shall be maintained in the applied technology unit. A copy of this certificate may be filed with clerk of the applicable court in the respective parish in which each device is used for blood/breath testing, and this copy shall be prima facie evidence as to the proper working order of the instrument. The inspecting applied technology director, breath analysis supervisor, breath analysis specialist, breath analysis instructor specialist, or applied technology specialist's permit number shall also be affixed to this certificate. Any manufacturer of any apparatus, device, or equipment made for the purpose of analyzing the alcoholic contents of the blood by breath sampling may request the applied technology unit to approve such apparatus, device or equipment. The applied technology unit will consider such a request upon submission of such information, instructions for use, exemplars and other pertinent data as the applied technology unit may request. Before any blood/breath alcohol testing will be approved it must have undergone inspection and testing by the applied technology unit. This period of testing and evaluation is for the purpose of assuring that an instrument is free of any design error, malfunction or operating problems and accurately and consistently determines the percent by weight by volume of alcohol in the blood at the time the test is administered by utilizing the 2100:1 correlation between alcohol in the breath and alcohol in the blood in accordance with the Uniform Vehicle Code.

B. - B.1. …

2. Intoxilyzer 9000, manufactured by CMI, Inc., a subsidiary of MPD, Inc. Every Intoxilyzer 9000 which has been certified and placed in operation in Louisiana is now and has been continuously, since the original certification, an approved instrument for the analysis of breath specimens for the determination of blood alcoholic content.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 4:390 (October 1978), amended LR 6:660 (November 1980), amended by the Department of Public Safety and Correction, office of State Police, LR 11:256 (March 1985), amended LR 17:362 (June 1988), repromulgated LR 14:441 (July 1988), amended LR 17:672 (July 1991), repromulgated LR 17:795 (August 1991), amended LR 18:1266 (November 1992), amended by the Department of Public Safety and Corrections, Office of State Police, Applied Technology Unit, LR 38:

§507. Qualification of Individuals for Instrument Maintenance and Inspection

A. - B. …

C. The maintenance and/or repair work shall be performed by applied technology director, breath analysis supervisor, or breath analysis specialist, breath analysis instructor specialist, or applied technology specialist of the

applied technology unit, who are certified by the Louisiana Department of Public Safety and Correction to perform such. The instrument recertification form that is filed with the clerks of the respective courts every four months for the Intoxilyzer 5000 and every six months for the Intoxilyzer 9000, shall also have the inspecting applied technology director, breath analysis supervisor, or breath analysis specialist, breath analysis instructor specialist, or applied technology specialist permit number affixed to this certificate. This permit number shall be proof as to the certification of the inspecting applied technology director, breath analysis supervisor, or breath analysis specialist, breath analysis instructor specialist or applied technology specialist by the Louisiana Department or Public Safety and Corrections.

D. The procedure used by applied technology director, breath analysis supervisor, or breath analysis specialist, breath analysis instructor specialist, or applied technology specialist in the inspections of the instrument at least every four months for the Intoxilyzer 5000 and at least every six months for the Intoxilyzer 9000, for the checking of the calibration shall be as follows.

D.1. - E. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 4:390 (October 1978), amended LR 6:662 (November 1980), amended by the Department of Public Safety and Corrections, Office of State Police LR 11:257 (March 1985), LR 14:362 (June 1988), repromulgated LR 14:442 (July 1988), amended LR 17:673 (July 1991), repromulgated LR 17:796 (August 1991), amended LR 27:1930 (November 2001), amended by the Department of Public Safety and Corrections, Office of State Police, Applied Technology Unit, LR 38:

§509. Permits

A. - A.4. …

B. In the event of an emergency such as a natural disaster, the Applied Technology Unit may extend the permit card expiration date for up to an additional 180 days. The extension would only apply to the cards that would expire during the time the disaster occurred.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:663

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 4:392 (October 1978), amended LR 6:663 (November 1980), amended by the Department of Public Safety and Corrections, Office of State Police, LR 11:257 (March 1985), LR 14:363 (June 1988), repromulgated LR 14:443 (July 1988), amended LR 17:674 (July 1991), repromulgated LR 17:797 (August 1991), amended by LR 27:1931 (November 2001), amended by the Department of Public Safety and Corrections, Office of State Police, Applied Technology Unit, LR 32:110 (January 2006), LR 38:

§511. Recording Analysis and Recertification Date

A. The breath testing instrument(s) automatically stores all test records into a data bank.

B. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 4:392 (October 1978), amended LR 6:663 (November 1980), amended by the Department of Public Safety and Corrections, Office of State Police, LR 11:257 (March 1985), LR 14:364 (June 1988), repromulgated LR 14:443 (July 1988), amended LR 17:674 (July 1991), repromulgated LR 17:797 (August 1991), amended by the Department of Public Safety and Corrections, Office of State Police, Applied Technology Unit, LR 38:

§514. Procedure for Analysis Using the Intoxilyzer 9000

A. General observation of the subject for a period of not less than 15 minutes prior to testing whereby the subject shall not have ingested alcohol, alcoholic beverage, regurgitated, vomited, or taken anything by mouth.

B. The operator conducting blood/breath analysis shall conduct such analysis in accordance with the "Intoxilyzer 9000 instrument display" which includes, but is not limited to the following:

1. swipe the operator card or press the start test button for instructions;
2. enter information as prompted by the instrument display;
3. new and clean mouthpiece attached to the breath inlet hose;
4. subject instructed to blow through the mouthpiece sufficiently until the instrument accepts the proper breath sample;
5. the subject test information is printed, electronically recorded, and retained by the applied technology unit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:663

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Applied Technology Unit, LR 38:

§515. Maintenance Inspection for the Intoxilyzer 5000

A. - A.6. …

B. In the event of a natural disaster, the applied technology director may extend the certification period of the affected instruments to not more than 180 days after the current recertification anniversary date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:663.

HISTORICAL NOTES: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 4:391 (October 1978), LR 11:259 (March 1985), LR 14:364 (June 1988), repromulgated LR 14:444 (July 1988), amended LR 17:675 (July 1991), repromulgated LR 17:798 (August 1991), amended by the Department of Public Safety and Corrections, Office of State Police, Applied Technology Unit, LR 32:110 (January 2006), LR 38:

§516. Maintenance Inspection for the Intoxilyzer 9000

A. Maintenance inspection shall be performed on a routine basis at least once every six months by the applied technology director, breath analysis supervisor, breath analysis instructor specialist, or applied technology specialist. Items to be inspected shall include, but not be limited to the following:

1. clean instrument;
2. check printer operation;
3. check breath tube inlet hose;
4. in event repair work is needed, it shall be recorded in detail.

B. In the event of a natural disaster, the applied technology director may extend the certification period of the affected instruments to not more than 180 days after the current recertification anniversary date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:663

HISTORICAL NOTE: Promulgated amended by the Department of Public Safety and Corrections, Office of State Police, Applied Technology Unit, LR 38:

Family Impact Statement

1. The effect of this Rule on the stability of the family. This Rule will have no effect on the stability of the family.

2. The effect of this Rule on the authority and rights of parents regarding the education and supervision of their children. This Rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect of this Rule on the functioning of the family. This Rule will have no effect on the functioning of the family.

4. The effect of this Rule on family earnings and family budget. This Rule will have no effect on family earning and family budget.

5. The effect of this Rule on the behavior and personal responsibility of children. This Rule will have no effect on the behavior and personal responsibility of children.

6. the effect of this Rule on the ability of the family or local government to perform the function as contained in the proposed rules. This Rule will have no effect on the ability of the family or local government to perform the function as contained in the proposed rules.

Public Comments

Interested persons may submit written comments or requests for public hearing on these proposed rule changes to Laura Hopes, Department of Public Safety and Corrections, Public Safety Services, Office of Legal Affairs, 7979 Independence Blvd., Suite 307, P.O. Box 66614, Baton Rouge, LA 70896. Comments will be accepted through close of business May 10, 2012.

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Breath and Blood Alchohol Analysis

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule will result in a minimal decrease in state expenditures. The purpose of the proposed rule is to add a specific piece of equipment, the Intoxilyzer 9000, to the approved product list of breath alcohol testing devices and to eliminate the current requirement to fill out an intoxilyzer log book wherein all test results are currently recorded manually. Current administrative rule requires a paper log of all test results but test data is now captured electronically and saved in electronic memory devices for upload into the appropriate computer hardware or databases. By not purchasing paper log books, the Office of State Police will realize an annual expenditure savings of approximately $1,050.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change will have no impact on costs and/or economic benefits to affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no effect on competition and employment.

Jill Boudreaux	Evan Brasseaux
Undersecretary	Staff Director
1204#046	Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections
State Uniform Construction Code Council

Seismic Design and Electrical Code (LAC 55:VI.301)

In accordance with the provisions of R.S. 40:1730.26, relative to the authority of the Louisiana State Uniform Construction Code Council (LSUCCC) to promulgate and enforce rules, the LSUCCC hereby proposes to adopt the following Rule regarding the establishment of minimum standards for seismic design to resist the effects of earthquakes.

Title 55
PUBLIC SAFETY
Part VI. Uniform Construction Code
Chapter 3. Adoption of the Louisiana State Uniform Construction Code
§301. Louisiana State Uniform Construction Code

A. - A.1.a.iii. …

iv. Amend chapter 16, section 1613.1 Scope. Every structure, and portion thereof, including nonstructural components that are permanently attached to structures and their supports and attachments, shall be designed and constructed to resist the effects of earthquake motions in accordance with ASCE7, excluding Chapter 14 and Appendix 11A. The seismic design category for a structure is permitted to be determined in accordance with Section 1613 or ASCE 7-10. Figure 1613.5(1) shall be replaced with ASCE 7-10 Figure 22-1. Figure 1613.5(2) shall be replaced with ASCE 7-10 Figure 22-2.

v. Amend chapter 23, section 2308.2, exceptions 4. Wind speeds shall not exceed 110 miles per hour (mph) (48.4m/s) (3-second gust) for buildings in exposure category B.

2. - 6. …

7. National Electric Code (NEC), 2011 Edition. This Code is to become effective on January 1, 2013.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D) and 40:1730.26(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:291 (February 2007), amended LR 34:93 (January 2008), LR 34: 883 (May 2008), LR 34:2205 (October 2008), LR 35:1904 (September 2009), LR 36:2574 (November 2010), effective January 1, 2011, LR 37:601 (February 2011), LR 37:913 (March 2011), repromulgated LR 37:2187 (July 2011), repromulgated LR 37:2726 (September 2011), LR 37:3065 (October 2011); LR 38:

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.

Local governmental entities have the ability to perform the enforcement of the action proposed in accordance with R.S. 40:1730.23.

Small Business Impact Statement

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

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Such comments should be submitted no later than May 15, 2012, at 4:30 p.m. to Mark Joiner, 8181 Independence Blvd., Baton Rouge, La. 70806.

Public Hearing

A public hearing is scheduled for May 25, 2012 at 10 a.m. at 8181 Independence Blvd., Baton Rouge, LA 70806. Please call in advance to confirm the time and place of meeting, as the meeting will be cancelled if the requisite number of comments is not received.

Jill P. Boudreaux
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Seismic Design and Electrical Code

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change is not anticipated to result in additional state or local government costs. This rule change adopts the 2011 edition of the National Electric Code and provides for an amendment to the adopted construction codes by replacing the ASCE-7 seismic maps published by the American Society of Civil Engineers and adopted in the 2009 International Building Code. This will result in a decrease in commercial construction costs for owners, contractors, and both state and local governments due to lower seismic standards for construction.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated impact on revenue collections of state or local governmental units as a result of this rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The construction industry and prospective owners of commercial buildings will be affected by the proposed changes with regard to the International Building Code (IBC). The proposed IBC amendment will replace the ASCE-7 seismic maps adopted in the 2009 International Building Code with the recently updated editions of these maps. The updated maps show a decrease in the likelihood of a seismic event throughout much of the state, thus lowering the significant construction cost necessary to engineer for such an event. This will result in a decrease in commercial construction costs for owners and contractors due to lower seismic standards for construction.

Adoption of the 2011 National Electric Code will not have a significant impact on property owners or contractors.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes should not significantly effect competition or employment.

Jill Boudreaux	Evan Brasseaux
Undersecretary	Staff Director
1204#069	Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue
Policy Services Division

Payment of Sales and Use Taxes by Persons Constructing, Altering, or Repairing Immovable Property (LAC 61:I.4372)

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 adopt LAC 61:I.4372. This proposed Rule will provide that the contractors who purchase or import tangible personal property that they or their contractors, subcontractors, or agents will use in the construction, alteration, or repair of immovable property and such tangible personal property is transferred to the final customer from the contractor in an immovable state, then in such cases the contractors are presumed liable for the taxes imposed by the state sales and use law and by the sales tax ordinances of political subdivisions of the state on their purchases or importations of such tangible personal property.

There is a long line of jurisprudence in Louisiana which holds that contractors are users and consumers of tangible personal property, rather than re-sellers. The Louisiana Supreme Court has issued several decisions so holding, including *State v. J. Watts Kearny & Sons*, 181 La. 554, 160 So. 77 (La. 1935); *State v. Owin*, 191 La. 617, 186 So. 46 (La. 1938); *Claiborne Sales Co. v. Collector of Revenue*, 42981 (La. 11/27/57), 99 So.2d 345; *Chicago Bridge & Iron Co. v. Cocreham*, 55769 (La. 6/23/75), 317 So.2d 605; and *Bill Roberts, Inc. v. McNamara*, 88-1776 (La. 3/13/89), 539 So.2d 1226.

The payment of sales or use taxes on materials purchased or imported for use on immovable property contracts is routine for most contractors, so this rule will not affect their business practices. In a minority of cases, however, mostly on transactions for the repair or alteration of immovable property, some service providers and contractors have engaged in the practice of invoicing customers separately for materials used in providing the service, and collecting and

remitting sales taxes on the separate materials charges. In such cases, the service providers have not themselves paid sales or use taxes on their acquisitions of the materials for their use on the real property repair or alteration projects, but have instead treated the materials as purchases of tangible personal property for resale.

In some cases, contractors invoicing sales taxes on materials used on immovable property contracts have not reflected the true nature of the transactions. Customers have submitted claims to the department and to local sales tax administrators for refund of sales taxes that they have remitted to their service providers pursuant to those invoices. The filing of these claims has placed tax authorities in the position of having to determine, very often, without the benefit of written contracts, the nature of the transactions that occurred between two parties. Tax authorities' payment of such claims has resulted in no sales or use taxes being paid on the materials used in the projects, either as tax paid by the service providers on their purchases or as tax collected and remitted by the service providers. Tax authorities believe that having a presumption concerning the tax liability is necessary in order to protect the public fiscal and to provide guidance to service providers and contractors as to the proper methods for the payment of sales and use taxes. Since this rule imposes a rebuttable presumption, it will not interfere with the parties' freedom to contract in cases where tangible personal property is actually sold to the customer, and not just used in providing a service. The presumption may be overcome by evidence as to the nature of the transaction.

Upon final promulgation of this proposed rule, the Louisiana Department of Revenue will repeal Revenue Ruling No. 05-001, issued on March 1, 2005, which, in discussing alternative means for the payment of sales or use taxes on transactions for the repair and alteration of immovable property, places undue emphasis on the form or wording of the invoice.

Title 61
REVENUE AND TAXATION
Part I. Taxes Collected and Administered by the Secretary of Revenue
Chapter 43. Sales and Use Tax
§4372. Payment of Sales and Use Taxes by Persons Constructing, Renovating, or Altering Immovable Property

A. General. The purpose of this Section is to help clarify which party to the transaction is liable for the payment of sales and use taxes on the purchase, use, consumption, distribution, or storage for use or consumption of tangible personal property in this state when such property is used in the construction, alteration, or repair of an immovable property, and such tangible personal property is transferred from the contractor to its customer in an immovable state.

B. Definition. For the purposes of this Section, the term *contractor* means any dealer, as defined in this Chapter, who contracts or undertakes to construct, manage, or supervise the construction, alteration, or repair of any immovable property, such as buildings, houses, roads, levees, pipelines, oil and gas wells (downhole), and industrial facilities. It also includes subcontractors. The term *contractor* shall not include a dealer who fabricates or constructs property that is sold to another person as tangible personal property, provided that the fabricator or constructor of the tangible personal property does not affix that tangible personal property to the buyer's immovable property.

C. Sales of tangible personal property, including materials, supplies, and equipment, made to contractors, or their contractors, subcontractors, or agents, for use in the construction, alteration, or repair of immovable property are presumed to be sales to consumers or users, not sales for resale, and therefore the contractor is liable for the taxes imposed by this Chapter on their purchases or importations of such tangible personal property. This presumption may be rebutted by a showing of credible evidence, such as a writing signed by the contractor's customer stating that title and/or possession of itemized articles of tangible personal property were transferred to the customer prior to their being made immovable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 38:

Family Impact Statement

Implementation of this proposed Rule should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability, and autonomy. 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; or
6. the ability of the family or a local government to perform this function.

Public Comments

Interested persons may submit data, views, or arguments regarding this proposed Rule, in writing to Frederick Mulhearn, Policy Services Division, Office of Legal Affairs, P.O. Box 44098, Baton Rouge, LA 70804-4098. All comments must be received no later than 4 p.m., May 25, 2012.

Public Hearing

A public hearing will be held on May 29, 2012 at 10:30 a.m. in the River Room on the seventh 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: Payment of Sales and Use Taxes by Persons Constructing, Altering, or Repairing Immovable Property

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no implementation costs to state or local governmental units. The implementation savings will be minimal. In some cases, contractors have invoiced sales taxes on materials used in immovable property contracts, and their customers have submitted claims to the Department of Revenue and local tax administrators for refund of the taxes they have

paid to the contractors pursuant to those invoices. Under this rule, the contractor is presumed to be liable for sales/use taxes, not the contractor's customer. This may result in a small decrease in the number of refund claims filed by such customers at the state and local level.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The overall effect should be effectively neutral. With this proposed rule, there should be fewer refund claims filed by contractor's customers, and thus fewer refunds paid by the tax authorities. The tax liability has always rested with the contractor, though the few times this occurred, the collection period had prescribed. This rule is expected to prevent a repeat of this occurrence. While the impact of the rule may be minimal at this point, without the guidance it provides, the situation could worsen, causing tax authorities to have to make more refunds because of incorrectly charged taxes.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The payment of sales or use taxes on materials purchased or imported for use on immovable property contracts is routine for most contractors, so this rule will not affect their business practices. There should be no costs or benefits to directly affected persons. The proposed rule only serves to clarify which party should remit sales tax and provides no change to the establishment of the sales tax liability.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The rule should have no effect on competition or employment.

Cynthia Bridges	Gregory V. Albrecht
Secretary	Chief Economist
1204#035	Legislative Fiscal Office

NOTICE OF INTENT

Department of Transportation and Development
Office of Aviation

Aviation Program Needs and Project Priority Process
(LAC 70:IX.Chapters 3 and 9)

In accordance with R.S. 2:6, the applicable provisions of the Administrative Procedure Act, and R.S. 49:950 et seq., notice is hereby given that the Department of Transportation and Development, Office of Aviation, intends to amend Chapter 9, Part IX of Title 70, entitled "Intermodal Transportation" and intends to move and renumber Chapter 9 and all Sections contained therein.

The proposed Rule change consists of re-numbering and re-naming Chapter 9, "Aviation Program Needs and Project Priority Process" to Chapter 3, "Airport Construction and Development Priority Program Process." Each Section within Chapter 9 will be renumbered to begin with the number 3 to be consistent with the re-numbering the chapter. There is currently no Chapter 3 in Part IX of Title 70.

Additionally, §313, (formerly §913) will be amended to increase project fiscal year programmed funding limits and to reflect internal department position name changes. Further, §313 (formerly §913) will be amended to replace the word "funding" with the word "fiscal" and the words "more than" with the word "over." The substitution of these words is not intended to change the substance of the Rule; and §315, (formerly §915) will be amended to update terminology, and to update the administration of airport grants and basic airport project application procedures; and §301 (formerly §901) will be repromulgated to correct the name of the Department of Transportation and Development and to reference its acronym.

Title 70
TRANSPORTATION
Part IX. Intermodal Transportation
Chapter 3. Airport Construction and Development Priority Program Process (Formerly Chapter 9)

§301. Introduction (Formerly §901)

A. The Louisiana Department of Transportation and Development (DOTD), Aviation Section is responsible for the development of public aviation facilities in the state. Assistance with the planning, design, and construction of facilities is provided to local governments which own the public airports. In addition, state funding is used in many cases to provide all or a portion of the local match requirement if the improvement is federally funded, receives 90 percent or more of project funds from sources other than state funds, or if most or all of the total funding is previously approved by the Legislature. The aviation portion of the Louisiana Transportation Trust Fund is known as the Aviation Trust Fund (ATF), which is funded by the collection of sales tax solely on aviation fuels, and is the only source of state funds for airport capital improvements or matching funds for federal airport improvement grants.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997, R.S. 2:803(B) and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1504 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:519 (March 2007), repromulgated by the Department of Transportation and Development, Office of Aviation, LR 38:

§303. Federal Aviation Administration (FAA) Airport Improvement Program (AIP) Grants (Formerly §903)

A. Federal funding for projects is received through grants from the Federal Aviation Administration directly to the recipient airport. Under the Airport Improvement Program (AIP) a minimum of 90 percent of project funds are federal. Occasionally, the FAA may offer a grant requiring a local match of more than 10 percent. For example, terminal building projects at commercial service airports are offered as 75 percent federal, 25 percent local match. Terminal buildings at commercial service airports may have a percentage of the project not eligible to receive funding. In most instances, the FAA determines what portion is or is not eligible. When the local sponsor requests state funding assistance for the local share, the project is evaluated through the priority system because of the use of state dollars. The local sponsor must coordinate the development of the project with the Aviation Section and the FAA in order to receive the matching funds through the priority system. When the required match is greater than 10 percent, the state will participate in no more than 10 percent of the project cost and the local sponsor must provide the additional matching funds. The FAA provides the AIP grants directly to the

airport sponsor who is responsible for administering the grant.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997, R.S. 2:803(B) and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1504 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:519 (March 2007), repromulgated by the Department of Transportation and Development, Office of Aviation, LR 38:

§305. Project Identification and Development (Formerly §905)

A. The primary objective of the priority system is to prioritize airport improvement projects. Nonprioritized projects are not included in the priority system as individual projects, but are funded through approved amounts for each category of project. Differences in the criteria for assessing these types of projects and the relatively small amount of state funding available make them impractical to include in the same process with airport improvement projects.

B. Potential projects for inclusion in the priority system are initiated by the airport sponsor or by the state Aviation Section. The need for the project may be identified in a master plan, action plan, system planning document, or as a result of a change in conditions or facilities at the airport.

C. Only airport development projects are subject to prioritization. Airport administration and operations are not included since they are the responsibility of the airport owner and are not within the purview of the prioritization process.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1505 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:519 (March 2007), repromulgated by the Department of Transportation and Development, Office of Aviation, LR 38:

§307. Project Prioritization Process (Formerly §907)

A. The prioritization of a project is a two-step process. The first step is to determine whether the project should be included in the priority process. The second step is to determine whether the information necessary for prioritization is available. Support documentation may include a project resolution from the local airport owner or sponsor requesting state assistance for that project, project scope and estimated cost, justification of the project, any environmental clearance documentation (if necessary), and information from the local sponsor necessary for prioritization of the project. Height limitation and land use zoning ordinances, operations manual, documentation that part 139 and 5010 inspection discrepancies have been corrected, pavement maintenance plan, and a certified copy of the legal document creating the airport district or authority may also be requested before the process can continue. If any pertinent documentation is missing, the review process may cease and not continue until all information is made available to the Aviation Section. If all of the necessary documents are not received by the Aviation Section by November 1, the proposed project may not be allowed to compete for funding for that fiscal year being prioritized but may be considered for the following fiscal year.

B. Those projects which qualify for prioritization are then assigned point values to determine their relative priority. Those with insufficient information may be returned to the airport owner until required information can be provided. Once it has been determined that the project is eligible and all documentation has been provided, the next step is the assignment of point values. When point values are finalized, the project is placed into the priority system where it is ranked in relation to all other projects in the system.

C. The project components are also reviewed to determine if the project can be prioritized as one project or requires restructuring into more than one project. The project will be restructured into usable units if necessary. An example is a request to lengthen a runway and to extend the corresponding taxiway. The runway can be lengthened and is usable without the extension of the taxiway so these may be considered as two projects in the priority system. On the other hand, the extension of the runway's lighting system would be included with the runway extension as one project because the additional runway length cannot be used at night without the extended lighting. See §915.B for further details.

D. The structure of the priority rating system is based on an evaluation of four categories:

1. Category I—project type;
2. Category II—facility usage;
3. Category III—sponsor compliance;
4. Category IV—special considerations.

E. Points are awarded to a project based on evaluation criteria in each category and the total evaluation score for the project is the sum of points in each category. Based on priority ratings of projects, a prioritized program of projects is developed by the Aviation Section and submitted to the Joint Legislative Committee for Transportation, Highways and Public Works. This committee approves the program of projects which becomes the capital improvement projects that will be implemented by the Aviation Section in the next fiscal year. A project submitted after this approval with a ranking high enough to place the project on the program of projects cannot be added until a new program of projects is submitted to the committee the following year. However, a project receiving other than state funds may receive a state match in accordance with R.S. 2:803(B), if funds are available as determined by the Aviation Section.

F. The Transportation Trust Fund legislation requires a priority system to prioritize projects in some logical order for addressing documented needs in the state's public airport system. The priority system is a process that has been developed to allocate state aviation funding to address these needs. The system reflects the state's development policy for the airport system, assigning higher values to projects which are consistent with the policy.

G. The only projects that should appear on the prioritization list are those that have a chance of being implemented in the foreseeable future. Ideally, this would be within a three-year period from the time the project appears on the priority list. Prioritized projects which have been approved for state funding but which, for lack of federal matching funds or other reasons, do not have a signed construction contract within three fiscal years may be deleted from the program. Funds which had been approved

for a deleted project will be reallocated to any other prioritized project as needed. Normally such funds will be used to cover project overruns, "up front" engineering costs (FAA reimbursable engineering costs incurred by the airport owner prior to the issuance of a federal grant in aid), or "up front" land purchase costs (FAA reimbursable costs associated with survey, real estate and title fees, and purchase of land by the airport owner prior to the issuance of a federal grant-in-aid).

H. These funds may also be used to fund the next-in-line project on the four-year unfunded portion of the priority list if that project has received funding or for projects funded by other than state funds not covered by the Future FAA Obligations funds. As a general rule, funds originally allocated to commercial service airports will, whenever practical, be used to fund projects on the commercial service airport four-year unfunded list. Funds allocated to general aviation airports will likewise be used to fund projects on the general aviation airport four-year unfunded list. In the event there are insufficient projects on either four-year unfunded list, funds originally allocated to one class of airport may be reallocated to the other class of airport.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997, R.S. 2:803(B) and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1505 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:520 (March 2007), repromulgated by the Department of Transportation and Development, Office of Aviation, LR 38:

§309. Nonprioritized Programs (Formerly §909)

A. Through the legislative approval process for the Priority Program, the Aviation Section may specify on the Priority Program, nonprioritized programs as needed. Such statewide programs may include, but are not limited to Planning, Navigational Aids, Discretionary Projects, Maintenance Reimbursement, Obstruction Removal Safety programs, Future FAA Obligations, Statewide Marking Program, and Statewide Sealcoat Program. These programs are an integral element of the state's aviation program. Projects cannot reach the facility improvement stage without going through the planning phase. Navigational aid projects enhance use of the overall state system. Discretionary projects provide the Aviation Section with the latitude to fund emergency or safety related projects on a real-time basis and to undertake projects which are too small to be eligible for funding through the priority program. The state's airport system would be stagnated without these types of projects. The Maintenance Reimbursement Program assists the general aviation airports in the high cost of maintaining an airport and allows the airport to maintain a safe and operational status. The Obstruction Removal Safety Program is needed to keep the state's airports safe from obstructions that penetrate the airports approach slopes, runway protection zones, FAR Part 77 and transitional surfaces. The Future FAA Obligations are needed to meet the funding requirements for the projects the Federal Aviation Administration (FAA) has funded after the priority program has been approved. This phenomenon is caused by the state's fiscal year being out of synchronization with the federal fiscal year by approximately three months. This special program precludes the loss of federal funds and improves the state's timely response. The Statewide Marking Program assists airports statewide in maintaining a safe visual marking aid environment on the airfield. The Statewide Sealcoat Program assists airports statewide in maintaining their pavement in good condition.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1505 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:521 (March 2007), repromulgated by the Department of Transportation and Development, Office of Aviation, LR 38:

§311. Commercial Service versus General Aviation Airports (Formerly §911)

A. One of the basic objectives of a priority process is to identify projects that benefit the highest number of aviation system users, however, it primarily identifies projects that have the greater need, even if the airport serves less users than another airport. When airports are compared on the basis of persons served, airports offering scheduled or unscheduled commercial air service to the public serve more persons than airports that support general aviation activity. Differences in the size, revenue generation capability, and usage of commercial service airports (those airports which enplane 2,500 or more passengers annually) as compared to general aviation airports make it difficult to compare the need for projects between the commercial service and general aviation airports.

B. Because of aircraft size, weight, speed, operational characteristics, and FAA design standards, facilities at commercial service airports have more demanding standards and thus more costly engineering and construction. Because of the significant differences between commercial service and general aviation airports project standards, each group's projects are prioritized separately.

C. The commercial service airports priority projects must have an established funding level, just as the general aviation priority projects must have an established funding level. To accomplish this, the total funds available for airport improvement projects in a given year are allocated between commercial service and general aviation airport projects in a ratio of 65 percent for commercial service airports and 35 percent for general aviation airports. This balance is adjusted, however, if there are insufficient projects in either category to fully utilize available funding. This 65 percent/35 percent allocation is based on past experience in the state's aviation program and the levels of state funding allocated to each type of airport. It also reflects the fact that commercial service airports have a far greater capability of generating revenue through means unavailable to general aviation airports such as: vendor leases, landing fees, airline contracts, passenger facility charges, and rental car lease agreements. Passenger facility charges (PFC) are charges passed on to a commercial service passenger, which can be collected by the airport to fund projects not otherwise funded. These projects are eligible to be approved by the FAA for 100 percent funding through the PFC collection. Therefore, PFC funds are not normally eligible to receive matching funds from the state.

D. The division of projects by commercial service or general aviation airport categories results in two project priority lists, one for each of the two types of airports. Each step of the prioritization process is identical for both commercial service and general aviation airport projects.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997, R.S. 2:802 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1507 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:521 (March 2007), repromulgated by the Department of Transportation and Development, Office of Aviation, LR 38:

§313. Preliminary Evaluation| (Formerly §913)

A. The preliminary evaluation is used to screen potential projects and determine those which can realistically be implemented, assuming available funding.

1. The first step is to determine whether the project should be included in the priority process. There are three basic criteria:

a. project type;

b. project size;

c. eligibility for federal matching funds.

2. The second step is to determine whether the information necessary for prioritization is available.

B. A review committee consisting of, at a minimum, the aviation director, assistant aviation director, and the aviation program manager, for the airport concerned will make an initial determination of whether there is sufficient information to prioritize a project when a project request is received. Some of the information considered by the committee is required by either Title 2 of the Louisiana Revised Statutes, the Louisiana Aviation Needs and Project Priority System, or DOTD and Aviation Section policy.

C. The DOTD Aviation Section is responsible for assigning priority values to projects and determining if they are consistent with development plans in the master plan or action plan for the airport. If insufficient data is sent to the Aviation Section, correct prioritization of the project will not be possible. When insufficient data is provided, a request will be made for the additional information needed. Therefore, project applications and necessary documentation should be sent to the Aviation Section early enough to allow time for processing and possible return for additional information before the program can be presented to the legislature for approval. Any document package not meeting all requirements or not in Aviation Section hands by the deadline may not be prioritized or included in the upcoming fiscal year's program.

D. Project Type. Generally, only airport improvement or preservation projects are included in the priority program. Some exceptions are:

1. land acquisition for obstruction removal or airport expansion;

2. aircraft rescue and firefighting (ARFF) vehicles and equipment;

3. airport noise studies; and

4. FAA AIP eligible projects when FAA is providing funding.

E. Some projects may be of a type in which the Aviation Section might not participate. For example, construction of roads and utilities for an air industrial park development and other such land side projects are not undertaken by the priority system and will not be funded by the Aviation Trust Fund.

F. Project Size. To be included in the priority system, a project must require the use of $25,000 (other than discretionary funds) or more in state funding. The $25,000 requirement only applies to projects which receive no federal funding. Some projects may be too costly to be funded from a single year's budget without denying funding to other needed projects at other airports. Therefore, no more than $3,000,000 in 100 percent state funding may be programmed to a single commercial service airport and no more than $1,000,000 in 100 percent state funding may be programmed to a single general aviation airport through the aviation priority program per fiscal year. Projects in excess of these amounts may be funded over two or more fiscal years. For example, a project for a commercial service airport may have a total cost of $9,000,000. The project may be prioritized in the upcoming budget cycle for no more than $3,000,000 but the remaining $6,000,000 will receive top priority in the following two yearly budgets to insure project completion. The same is true for a general aviation airport project except that the project maximum cost is $1,000,000 per budget year. This does not include projects that are prioritized as an FAA AIP grant unless it is known that the FAA will use a multi year funding approach. Regardless of the project size, if the FAA uses multi year funding, the state will also use a multi year approach.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997, R.S. 2:802 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1507 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:522 (March 2007), amended by the Department of Transportation and Development, Office of Aviation, LR 38:

§315. Project Support Documentation (Formerly §915)

A. Once it has been determined that a project is of the type and size to be considered in the priority system, an evaluation of required supporting documentation will be made. The project support documentation is a combination of documents and information necessary for the Aviation Section to determine if the project is developed sufficiently for inclusion in the priority listing. Documentation may include the following items:

1. Project Resolution. The initial document the Aviation Section needs for consideration of any project is a resolution from the public body operating the airport requesting assistance in the development of the project. Generally, the assistance requested would be for both funding and technical assistance. Any commitment from the local owner to participate in the cost of the project is also documented in the resolution. The resolution from the owner of the airport initiates an agreement between the two parties for joint sponsorship of the project and authorizes state participation in a local project pursuant to applicable provisions of state law. It is also a written commitment of support for the project by the owner. The Aviation Section requires a resolution (except from state-owned and operated

airports) from the airport sponsor or owner before a project can receive state funds.

2. Funding Sources. Since available state funding historically falls far short of the requested airport needs, it is especially important to use every opportunity to take advantage of the FAA/AIP program which provides funding grants for eligible projects at eligible airports. A request for 100 percent state funding may be processed for a project that is eligible for AIP funding. Those projects that are requested as FAA/state matching funds will remain on the program as FAA/state matching funds until the airport requests the project be converted or the airport submits a new project request with resolution prior to November 1 of each year to have the project prioritized as a 100 percent state funded project. An airport may request in writing to the aviation section to have the project converted from a FAA matching funds project to a 100 percent state funded project.

B. Project Components. In the priority system, projects are prioritized on a generic basis. For example, projects that affect the primary runway are all considered under the heading "primary runway." This could include lengthening, widening, lighting, grooving, etc., of the primary runway. Projects are defined on a usable basis or unit. This means that, if a runway is widened, the relocation of runway lighting and striping are all included in the project. Another example is a request to lengthen a runway and to extend the corresponding taxiway. The runway can be lengthened and is usable without the extension of the taxiway, so these may be considered as two projects in the priority system. Development of projects as a usable unit prevents projects of a lower priority being tagged onto a high priority project so they will be ranked higher. This focuses the priority system on those projects with the highest priority ranking, maximizing the effectiveness of aviation program funds. However, it is sometimes advantageous in terms of safety, operational effectiveness, and fiscal responsibility to include lower ranking projects along with otherwise unrelated higher projects. For instance, if there is a high priority project to overlay a runway, it may be appropriate to include a stub taxiway leading from the runway to a parking apron, or the apron itself if it is in especially poor condition. This can prevent damage to aircraft, provide a safe operational area for the necessary movement of aircraft, and take advantage of significant cost reductions for the lesser priority projects. This blending of otherwise nonrelated projects, is an exception which will be authorized only in exceptional cases. The aviation director is responsible for the organization of projects into usable units when projects are developed and for determining if special circumstances exist which would warrant combining unrelated projects.

C. Planning Data. The priority process depends heavily on planning data to evaluate the relative merits of a project. Usually the justification for a project is found in the master plan or action plan for the airport, but there are exceptions. Engineering inspections may identify the need for reconstruction of a runway, or a 5010 inspection may reveal a safety problem. Regardless of the means by which a project is identified, written documentation describing the need for the project and the justification for the action to be taken must be provided. The justification for the project should be brief and to the point.

1. Submitting a master plan or action plan document as sole justification is unacceptable. The pertinent section of the master plan or action plan should be submitted with a narrative to explain the project and demonstrate that it is consistent with the master plan or action plan recommendations.

2. The planning data for a project, at a minimum, must:

a. document the need for the project;

b. explain how the project meets the need;

c. give the estimated cost; and

d. include a sketch of the project on the airport's approved layout plan.

3. The documentation need not be lengthy but should focus on what is generating the need. For example, if an aircraft parking apron is to be expanded, the number of existing parking spaces versus the number of aircraft that need to be parked on the apron would be adequate documentation. A description of how large an apron expansion is proposed and how many additional parking spaces the expansion would create should be submitted. The expansion should also be shown on the airport's approved layout plan to illustrate how it fits in the overall master plan or action plan development recommended for the airport. If the expansion of the apron is not consistent with that shown in the master plan or action plan, an explanation for the proposed deviation is necessary.

D. Environmental Requirements. Some proposed projects, because of their potential environmental impact, may require environmental clearance before they can be constructed. During the preliminary evaluation of a project, a determination should be made whether or not environmental clearance is required. If the FAA Airports District Office or DOTD Aviation Section indicates environmental clearance is required, any documents that are available to show that environmental requirements have been met should be provided. If some type of environmental document needs to be developed for the project, this should be done before the project is placed in the priority system unless the environmental delineation and/or mitigation is part of or included in the project to be funded. Environmental clearance of projects can be a lengthy process and allowing a project to be dormant in the priority system while waiting for clearance could preclude another project or projects from being implemented.

E. Local Sponsor Requirements. The priority system recognizes the responsibility of the local government owners of the airport to operate the airport in a safe, professional manner. A category is included in the rating system that assigns a value for sponsor responsibility. To be able to assign this value, certain information is required from the owner of the airport.

1. Two of the evaluation criteria in the "sponsor responsibility" category are whether the airport has height limitation zoning and land use zoning in effect at the airport. If the Aviation Section does not have a copy of the airport's zoning ordinances on file, the local owner is required to provide this. The lack of zoning at the airport will cause a lower ranking of the proposed project.

2. No airport may receive state funding from the DOTD, Aviation Section if officially declared in

noncompliance with federal or state laws, regulations, rules, or policies by the FAA or DOTD, Aviation Section.

3. The presence of zoning ordinances, an implemented pavement maintenance plan, compliance with the airport operations manual, and adequate airport maintenance are evaluated in the preliminary evaluation of a project because if they are not being done at an airport, the local sponsor should be given an opportunity to rectify the situation before the project is prioritized. The airport owner will be advised of the corrective actions that can be taken to improve the project score. If the owner does not initiate and document corrective action that clearly shows that action is being taken to address these items and correct deficiencies in these areas, the project will not receive points in this category.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997, R.S. 2:802 and R.S.2.6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1508 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:522 (March 2007), amended by the Department of Transportation and Development, Office of Aviation, LR 38:

§317. Project priority Rating System (Formerly §917)

A. There are four categories of evaluation, each addressing one of the general areas in §925.A.1-4. The categories are as follows:

1. Category I—project type;
2. Category II—facility usage;
3. Category III—sponsor compliance;
4. Category IV—special considerations.

B. Points are awarded to a project based on evaluation criteria in each category, and the total evaluation score for the project is the sum of the points in each category. The point values are designed to award points in a weighted manner. Each area of evaluation receives points in proportion to the relative importance as determined by Aviation Section policy.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1510 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:524 (March 2007), repromulgated by the Department of Transportation and Development, Office of Aviation, LR 38:

§319. Category I—Project Type (see Exhibit 1) (Formerly §919)

A. This category is designed to segregate projects by type defined by the primary purpose of the project. To accomplish this, four subcategories have been designated for project type. These subcategories are:

1. safety;
2. airside preservation;
3. airside improvements;
4. landside improvements.

B. The subcategories are listed in order of descending importance and point values have been assigned accordingly. Development of projects directly related to safety of aircraft operations is considered the highest priority because of the potential for loss of life and property should safety needs not be addressed. Preserving the existing airport system is next in importance because the existing facilities represent an investment of public dollars and there is a commitment to maintain those facilities that are in use. The airside improvement type of project is the next project priority and reflects a policy by the Aviation Section to develop facilities to the design standards established by DOTD and FAA to accommodate existing aviation activity at an airport. Projects for landside improvements at an airport are last in the project type priority because safety, airside preservation and airside improvements are all types of projects that need to be addressed in order to maintain a safe and operational airport.

C. Except for the "safety" subcategory, the general approach to assigning points to projects within these subcategories is to give highest priority to addressing needs of the primary runway first and then decreasing priorities the farther the project is removed from the primary airside facilities. As an example, a project on a primary runway has a higher priority than an apron project, but the apron project has a higher priority than a vehicle parking lot project. Safety projects, because of their importance, are addressed equally regardless of what area of the airport they impact.

D. It should be noted that project types listed are generic. For example, any project dealing with the primary runway that is designed to preserve its integrity falls under the "preservation of existing system" subcategory. This means that overlaying of the primary runway receives the same number of points as reconstructing the primary runway because both are designed to preserve the integrity of the runway. The subcategories in the "project type" category are shown in Exhibit 1. The type of project within each subcategory and its corresponding point value are displayed.

E. The Aviation Section may participate in revenue-generating projects such as fueling systems and hangars. Such projects are usually done after all other airside projects or issues have been completed. Certain areas of terminal buildings at general aviation airports may be eligible. Areas such as the airport manager's office, flight planning area, pilot's lounge, and a small conference room would be considered eligible for funding. Areas such as a location for rental car agencies, restaurants, and fixed base operators (FBO's) would not be considered eligible for funding. The size of the terminal building eligible for funding would also be limited to the needs for the size airport in which it would be located.

F. Safety (see Exhibit 1.A). Projects in this subcategory are limited to those that only affect aircraft operational safety. These are projects such as obstruction removal, runway grooving, aircraft rescue and firefighting (ARFF) equipment, and lighting. It can be argued that most aviation improvement projects increase safety at an airport, but caution is used to place only those projects in this subcategory that specifically affect the safety of aircraft using the airport. For example, lengthening of a runway improves safety, but its primary purpose is to allow utilization by larger or faster aircraft. Projects in the "safety" category are those developed specifically to address an unsafe condition and thus receive the highest evaluation points possible.

G. Airside Preservation (see Exhibit 1.B). Projects that are required to maintain the functional integrity of existing facilities are evaluated in this subcategory. Projects such as

reconstruction of a runway or taxiway or rehabilitation of an existing lighting system are the types of projects included under this subcategory. The point values are assigned with the highest value to projects that maintain the integrity of the primary runway and decrease in value as the facility being maintained moves from preservation of existing facilities toward making improvements to airside facilities.

H. Airside Improvements (see Exhibit 1.C). Projects evaluated in this category are those the purpose of which is to upgrade a facility to a design standard based on current needs. The required design standards for facilities are determined by the role the airport plays in the state airport system and the Aviation Section facility development standards. The airport role and standards are found in the Louisiana Airport System Plan and in appropriate FAA and state airport design manuals and advisories.

I. Landside Improvements (see Exhibit 1.D). Projects in this subcategory are those that are designed to facilitate the handling of issues dealing strictly with landside improvements. These projects receive the least amount of points in the prioritization process due to the fact that emphasis must be put on airside needs in order to maintain a safe and operational airport. Projects in this subcategory may be addressed once the major airside issues have been addressed and resolved.

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§321. Category II—Facility Usage (see Exhibit 2) (Formerly §921)

A. This category weighs the use of an airport relative to the use of other airports in the system. The basic objective is to support projects that serve the most aviation users. This objective has to be balanced, however, with the Aviation Section's goal of maintaining a viable statewide system of public use airports and maintaining aviation and public safety.

B. As previously discussed, for this reason commercial service and general aviation airports are prioritized separately.

C. Points are awarded based on the number of aircraft based at the airport and/or the number of commercial enplanements. The point values have been developed to attempt to recognize higher use of an airport while not eliminating a low use airport from consideration for projects. Exhibit 2 shows the point rating structure for this category.

D. The number of based aircraft at an airport, as indicated in the latest 5010 inspection report, is used to determine the relative level of use at an airport by general aviation interests. There are some drawbacks to this approach. The number of operations for each based aircraft is not accounted for by using only the based aircraft numbers. Itinerant operations, which are very important to an airport, are not recognized by counting based aircraft. Other operations by aircraft not based on the field, such as agricultural and military aircraft, are also missed. All of these factors affect the overall number of operations at an airport which is a much more accurate measure of airport use than based aircraft, but reliable operations counts at all nontowered airports are not available for general aviation airports. Should the Aviation Section develop a systematic program for counting operations at nontowered airports, the relative number of operations at an airport may replace based aircraft as the indicator of facility use. Until such a system is developed, counts of based aircraft are the only consistent way to measure general aviation use at the airports.

E. For commercial service airports, points are also awarded in this category for the number of commercial service enplanements. The number of enplanements is taken from the FAA's annual enplanement data.

F. Airports that do not have enplanements, but are designated as reliever airports, receive points in this category also. Reliever airports are important in the system for diverting general aviation operations from commercial service airports with operational capacity problems and thus receive points in the category. The sum of points awarded for general aviation-based aircraft, commercial service passenger enplanements (commercial service airports), and reliever airports status constitutes an airport's score for the "facility usage" category of the priority rating system.

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§323. Category III—Sponsor Compliance (see Exhibit 3) (Formerly §923)

A. The "sponsor compliance" category evaluates how effectively the airport owners are operating the airport with respect to established standards and good management practices. Several areas are evaluated in this category that are critical to providing safe and efficient public services. Exhibit 3 shows the evaluation criteria and point values for this category.

B. Airports are affected by the use of the land surrounding them. Certain land uses in the vicinity of an airport can result in restrictions on use of the airport and, in extreme cases, in the total closure of the airport. Restrictions to prevent the penetration of tall objects into the approach surfaces for aircraft at an airport are very important. Generally referred to as "height hazard zoning," this type of zoning prevents tall objects that affect the safety of aircraft operations from being built around the airport. Tall objects can cause the displacement of thresholds and the raising of "minimums" for instrument approaches at an airport, thus decreasing the utilization of the airport. The airport represents a substantial public investment and implementation of height hazard zoning by the appropriate local governing body protects the investment by allowing the airport to be used to its full capacity. Points are awarded in this category for having height hazard zoning ordinances in effect at an airport.

C. A related area evaluated in this category is compatible land use zoning. Height hazard zoning controls the height of

objects but has no impact on the actual use of the land. Certain land uses around an airport are incompatible with airport operations because of safety considerations or impacts on landside activities. Noncompatible uses can create conflicts between the community and the airport which may create pressures to restrict use of the airport. Compatible land use zoning is necessary to protect the airport from restrictions placed on it when aviation uses conflict with surrounding land uses. For this reason, the presence of land use zoning is evaluated in this category.

D. The final evaluation area in the "sponsor responsibility" category is maintenance. The local owners of the airport are responsible for routine maintenance such as cutting the grass, changing light bulbs, maintaining proper drainage, sealing or filling pavement cracks, and refurbishing marking and painting stripes. If regular maintenance is not done, the airport will not receive full points in this category. If maintenance is cited as a problem, the airport will be notified by letter of the problem and the corrective action to be taken. Until the airport corrects the problem, all projects evaluated in the priority system for the airport will lose points.

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§325. Category IV—Special Considerations (see Exhibit 4)
(Formerly §925)

A. The first three evaluation categories cover those evaluation areas (project type, facility use, and sponsor compliance) for which all projects prioritized will receive an evaluation score. The "special considerations" category allows projects of special significance to receive additional evaluation points when being prioritized. The items evaluated in this category bear no relationship to one another and thus each project is evaluated with respect to each item to determine if it should receive bonus points in its prioritization score. Exhibit 4 shows the criteria and point values for bonus point evaluation.

B. The first area of evaluation is "special programs." At times, certain improvements at an airport may be mandated by federal or state law and thus require a higher prioritization. Also, as a matter of policy, the Aviation Section may determine that special emphasis should be placed on a certain type of project. All projects of the designated type will receive additional bonus points under these evaluation criteria. An example of this type of project would be a phased project. Additional points will be awarded to assure that a consecutive phase of a project receive a higher priority than a project that is not phased.

C. Economic development potential is another evaluation area under the "special considerations" category. While it is acknowledged that any construction project generates economic development, there are some projects that are designed to address a specific economic need at the airport or in the community. To receive points in this area, the economic development aspects of the project must to be well documented and clearly demonstrate the potential economic impact of the project. Facilities developed to accommodate the aviation needs of a business moving to the community is an example of an economic development type of project. The facilities would have to constitute a major factor in the business' decision to locate in the community. To receive bonus points in this area may require an economic impact study, the cost of which is the responsibility of the airport owner. Another example is a taxiway to open industrial airpark access would get bonus points, but a taxiway to a T-Hangar area would not. A runway project to accommodate corporate aircraft would need to be thoroughly documented that it was a major factor in the location of the business.

D. Commercial air service to a community is an important element in the community's overall economic development. Under the "special considerations" category, projects are evaluated to determine if their primary justification is to maintain or attract commercial air service to the airport. For a project to receive points under this category, it must be directly responsible for affecting commercial air service at the airport. Documentation of the project justification is essential for prioritization rating points to be awarded under this evaluation criteria.

E. Another "special considerations" category is the provision of local matching funds in excess of Aviation Section match requirements. Any project for which at least $5,000 in local funds are provided will receive bonus points in this category. For every $5,000 contributed by the airport owner, 5 bonus points will be awarded, up to a total to 20 bonus points for $20,000 contributed. Any amount above $20,000 contributed by the sponsor will only receive a maximum of 20 bonus points. This is designed to give higher preference to projects that are financially supported by the local owner in excess of that which is required; therefore, no matching funds from other state sources will qualify for bonus points. Commitment for local funding support should be included in the resolution submitted by the local owner requesting assistance from the Aviation Section for the project.

F. The last evaluation criterion under the “special considerations” category is the GA Entitlement Loan Program. Under this category a NPIAS GA airport may receive special program bonus points for a project by loaning their Non-Primary Entitlement (NPE) funds to another NPIAS GA airport. The airport receiving the loan will in turn, loan their future NPE funds to the airport which gave them the loan. The participating airport loaning the funds will be awarded additional bonus points for their next priority project.

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§327. New Airports
(Formerly §927)

A. An airport that is constructed on a new site presents some different prioritization issues than improvements to

existing airports. Generally, a new airport will fall into either of two categories.

1. The first is an airport that is proposed for an area of the state not served by a public airport.

2. The second is a new airport proposed to replace an existing public airport which, for any number of reasons, is not considered a suitable public airport.

B. Prioritization of projects for the development of a new airport requires a process slightly different than that for an existing airport. There are some special considerations that must be made in each of the four prioritization categories.

C. Initially, it must be determined if the project under consideration is for a "new" airport. At some point during its development, a new airport becomes an existing airport. For purposes of the priority process, an airport is considered "new" until land is purchased for the airport, a primary runway is constructed, and an apron for aircraft parking is constructed. This includes clearing of runway approaches. The completion of these elements allows aircraft to operate at the airport and thus, at this point, the airport is no longer considered "new" and future projects are prioritized using the standard prioritization process. Before this point is reached, however, the land acquisition, runway, and apron construction will be prioritized using the following special considerations in each category.

D. Under the "project type" category, new airport projects will be categorized in either of two project type categories. Those new airports that are replacing an existing airport are categorized as upgrade to standards type projects. This type of new airport allows construction of an airport that meets all DOTD design standards and allows for future expansion to meet these standards. It should be noted that land purchased for a new airport is often funded with state funds, but when the FAA begins funding other improvements such as the primary runway, the state is reimbursed for land acquisition costs. If this is the case, land acquisition should be treated as a federally-funded project and prioritized accordingly.

E. New airports constructed in areas of the state not being served by a public airport should be prioritized under the project type "capacity increases" subcategory. These airports are primarily to increase the capacity of the Louisiana public airports system and thus are prioritized in the "capacity increases" subcategory. As previously discussed, land acquisition costs are usually reimbursed by the FAA and these projects should be prioritized accordingly.

F. For the "facility usage" category, the based aircraft and enplanements numbers that determine the points awarded for the new airport project will be those cited in the supporting planning document for the first planning phase. This will usually be the numbers cited for the first year of operation.

G. Under the "sponsor responsibility" category, there are two areas that can be included in the prioritization process. The presence of height limitation zoning and land use zoning should be determined and points assigned accordingly. Most new airports will not have developed an operations manual for the airport. In cases where the airport has not developed an operations manual, the airport will be awarded five points based on the assumption that the elements of an operations manual will be in place when the airport is opened for operations.

H. In the "special considerations" category, a new airport can be assigned points in the same manner as an existing airport. If an airport is the first public airport in an area, a strong case can be made that the airport should receive bonus points for its economic development potential. The airport represents a totally new mode to the local transportation system and thus should have a significant long-term economic impact on the area served. The remaining bonus point areas can be assigned in the same manner they are assigned for existing airports.

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§329. Prioritization of Projects (Formerly §929)

A. Once a determination has been made by the Aviation Section that a project is eligible to be included in the prioritization system, the project will be prioritized using the rating system. The preliminary evaluation of the project should provide the information necessary to complete the process. If adequate information is not available, it will be requested before the project is prioritized. Prioritizing a project without sufficient information may cause a project to receive a higher or lower ranking than it deserves. Subsequent questions about why the project received the evaluation score may be difficult to answer without the documentation to support the points assigned in each category.

B. Point values are assigned in each category using the worksheet that is included as Exhibit 5. The worksheet follows the priority rating system and provides the documentation of how the total score for a project was derived. The worksheet is maintained with the project file so that documentation of the value assigned in each category is available.

C. Occasionally, a change in a project or at the airport might occur requiring the point values for a project to be modified. The new values are put on the same worksheet with a note explaining the reasons for the change.

D. As part of the evaluation of the project, the eligibility of the project for federal funding is noted on the worksheet. If federal funds are already committed, this is also included on the worksheet. When the project is entered in the automated priority system, the eligibility or commitment of federal funding for the project is noted.

E. Some projects will have equal scores after they are evaluated. If these projects fall at a point in the ranking list where a break is necessary (funded program versus four-year unfunded program), projects with the same score will be ranked based on the highest score in Category I. The project with the higher score in Category I will be ranked higher. If the projects are tied in Category I, Category III is used to break the tie and, if still tied, Category II is used, etc. Should the projects still be tied after examining all four categories, the project at the airport with the largest number of based aircraft will be ranked higher.

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HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1514 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:527 (March 2007), repromulgated by the Department of Transportation and Development, Office of Aviation, LR 38:

§331. Priority Ranking System (Formerly §931)

A. After the total evaluation score for a project is determined, it is entered into a priority ranking system and its relative ranking is determined. This system ranks projects by descending score in the commercial service airport or general aviation airport priority program as appropriate.

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HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1514 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:527 (March 2007), repromulgated by the Department of Transportation and Development, Office of Aviation, LR 38:

§333. Program of Projects (Formerly §933)

A. The lists of projects for commercial service and general aviation airports prioritized by evaluation score represent the program of projects that the Aviation Section will seek to implement through its development program. The actual number of projects from each list that will ultimately be constructed is primarily dependent upon the level of funding that the Aviation Section receives each year.

B. The priority system has been designed to allow inclusion of a cost estimate for each project. The estimate is broken down by federal share, state share, and local sponsor share. Since the system is designed to prioritize the use of state monies, the state funds required for a project are the key to developing a program of projects.

C. Most projects will require more than one year to design, acquire land (if necessary), and construct. When a project that is programmed to be funded over two or more fiscal years is included in the program, the phase of work (design, construction phase I, construction phase II, etc.) will be noted along with the cost of that phase. Subsequent phases may be shown at the top of the four-year unfunded list. As projects are constructed and more funding becomes available, remaining projects with the highest scores will be placed in the construction program to the extent that funding is available. This group of projects for which funding is available will not be changed until more funds become available. However, projects on the four-year unfunded list do not automatically move up to the funded list in the succeeding fiscal year. Rather, unfunded projects recompete for funding each fiscal year until they are either funded or dropped from the list after three years. Because needs, cost estimates, airport situation, and other data change regularly, after three years all projects which have not been started may be dropped from the program. If projects are dropped from the program, they must be resubmitted with updated information. They will then be reviewed and re-entered into the priority system.

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§335. Project Available for FAA Funding (Formerly §935)

A. Special consideration for projects that will receive FAA funding is included in the priority system. The priority system is a listing of the projects in the order that the state considers implementation desirable based on the state's overall aviation development policies. Utilization of the FAA's priorities to set state priorities is sometimes inconsistent with a state prioritization process. This does not mean that the state should ignore potential FAA funding in its development program.

B. There are two decisions that the Aviation Section makes when seeking FAA funding for its program. Projects that are planned at National Plan of Integrated Airport Systems (NPIAS) airports and that are types in which FAA will participate are noted. This enables the Aviation Section to present a proposed program of projects to the FAA that are eligible for FAA funding and that reflect state priorities. The Aviation Section then negotiates with the FAA to secure federal funding for top ranked projects. The second consideration for FAA funding is that there will be projects the FAA will fund that do not appear in the implementation program based on priority rankings. Realistically, the Aviation Section cannot reject a project that will receive funding from the FAA. In these cases, a project that has received a commitment for federal funds is to be automatically included in the list of projects for implementation in the current year. If the current year program is already developed, the project is given top priority in the next year program or may be funded by future FAA obligation funds or funds available from cost underruns. Therefore, it is important that airports seeking federal funding for projects that are eligible for matching funds from the aviation program coordinate their application with both the FAA and the Aviation Section.

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§337. Exhibits (Formerly §937)

A. Exhibit 1

Exhibit 1	
Category I—Project Type	
A. Safety—Projects Directly Affecting Operational Safety	
Points	
50	Correction of runway failures severe enough to be an obvious safety problem. Runway friction surface or grooving or other action directly related to safety.
49	Repair of primary runway lighting system or approach

Exhibit 1	
Category I—Project Type	
	lighting system which is not functional and is deemed to be a safety hazard.
48	Obstruction removal which is requiring the displacement of the runway threshold and relocation of runway lighting.
47	Obstruction removal to meet FAA Part 152 clear zone and FAR Part 77 imaginary surface requirements.
46	ARFF vehicles and equipment required at commercial service airports or minimum safety equipment at GA airports. Security fencing to correct a specific safety problem (does not include general perimeter fencing).
45	Safety condition identified by professional evaluation or accident statistics.
B. Airside Preservation—Preserving the Infrastructure of the Airport Dealing with Air Operations. Examples are preserving and maintaining the infrastructure of the runways, taxiways, aircraft aprons, airfield lighting, NAVAIDs, Fuel Farms, T-Hangars, etc.	
20	Primary runway
19	Taxiway serving primary runway
18	Apron
17	Secondary runway
16	Taxiway serving secondary runway
15	Stub taxiways and taxilanes
C. Airside Improvements—Improving the Infrastructure of the Airport Dealing with Air Operations. Examples are improving and upgrading the infrastructure of the runways, taxiways, aircraft aprons, airfield lighting, NAVAIDs, Fuel Farms, T-Hangars, etc.	
14	Primary runway
13	Primary taxiway
12	Apron
11	Perimeter fencing
10	Navigational Aids (NAVAIDS)
9	Secondary runway
8	Secondary taxiway
7	Agricultural loading area
6	Noise Mitigation / Terminal Building for Commercial Service Airports
5	New airport construction including runway, taxiway, and apron / Terminal Building for General Aviation Airports.
D. Land Side Improvements—Improvements That Enhance an Airport's Infrastructure Not Related to the Air Side.	
4	Land acquisition for future expansion
3	Primary vehicle access road
2	Primary vehicle nonrevenue-generating parking.
1	Other Land Side Improvements

B. Exhibit 2

Exhibit 2	
Category II—Facility Usage	
Based Aircraft*	**Points**
91 or More	20
81 to 90	18
71 to 80	16
61 to 70	14
51 to 60	12
41 to 50	10
31 to 40	8
21 to 30	6
11 to 20	4
1 to 10	2
Additional Points for Air Commercial Service Enplanements**	**Points**
500,000 or more	20
250,000 to 499,999	15
50,000 to 249,999	10
2,500 to 49,999 ***	5
If noncommercial reliever airport	10

Exhibit 2
Category II—Facility Usage
*Taken from latest 5010 Inspection **Taken from Annual FAA Enplanement Data ***Less than 2,500 enplanement do not receive points

C. Exhibit 3

Exhibit 3	
Category III—Sponsor Compliance	**Points**
Height Limitation Zoning	10
Land Use Zoning	5
5010 / Safety Inspection***	0 - 30
***Points are not awarded based solely on the number of deficiencies. Also taken into consideration are the timeliness and appropriateness of corrective actions. Points may be awarded on a sliding scale relative to the progress toward correcting deficiencies.	

D. Exhibit 4

Exhibit 4	
Category IV—Special Considerations	**Points**
Designated as Special Program*	15
Economic Development Potential**	10
Maintain or Attract Commercial Service	10
Local Funding in Excess of Requirements***	5-20
GA Entitlement Loan Program****	25
*Special Program—Certain types of projects mandated by Federal or State law or identified in a policy decision by DOTD. For example, if the EPA requires a certain kind of wash down facility, it could be given added priority with bonus points. If DOTD wishes to place emphasis on a particular type of project, e.g., hazard removal around the state, subsequent phase of a project continuation, these types of projects could receive Special Program points.	
**Economic Development—Clearly demonstrated impact on economic development in an industrial airpark or around the airport locale. For example, a taxiway to open industrial airpark access would get bonus points, but a taxiway to a T-Hangar area would not. A runway project to accommodate corporate aircraft would need to be thoroughly documented that it was a major factor in the location of the business. To receive bonus points in this category an economic impact study may be required, the cost of which is the responsibility of the airport owner.	
***Five points will be awarded for each $5,000 of matching funds provided by the airport owner up to a maximum of 20 points for $20,000. Any amount above $20,000 will only receive the maximum of 20 points. Funds may not come from other state sources.	
****GA Entitlement Loan Program—A NPIAS GA airport may receive special program bonus points for a project by loaning their Non-Primary Entitlement funds to another NPIAS GA airport.	

E. Exhibit 5

Project Priority Evaluation Worksheet	
Project Number*	**Date Evaluated**
Airport Name	
Description of Work	
Category I: Project Type	**Score**
Safety	
Airside Preservation	
Airside Preservation	
Airside Improvements	
Landside Improvements	
	Total
Category II: Facility Usage	
Based Aircraft	
Enplanements	
Reliever Airport	
	Total
Category III: Sponsor Responsibility	
Height Limitation Zoning	
Land Use Zoning	

Project Priority Evaluation Worksheet	
5010 / Safety Inspection	
	Total
Category IV: Special Considerations	
Special Program	
Economic Development	
Commercial Service	
Local Funding	
GA Entitlement Loan Program	
	Total
Project Total Evaluation Score	**Total**

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Chapter 9. Aviation Program Needs and Project Priority Process

§901. Introduction

Repealed.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997, R.S. 2:803(B) and R.S. 2:6.

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§903. Federal Aviation Administration (FAA) Airport Improvement Program (AIP) Grants

Repealed.

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§905. Project Identification and Development

Repealed.

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§907. Project Prioritization Process

Repealed.

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§909. Nonprioritized Programs

Repealed.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1505 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:521 (March 2007), repealed by the Department of Transportation and Development, Office of Aviation, LR 38:

§911. Commercial Service versus General Aviation Airports (Formerly §919)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997, R.S. 2:802 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1507 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:521 (March 2007), repealed by the Department of Transportation and Development, Office of Aviation, LR 38:

§913. Preliminary Evaluation (Formerly §921)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997, R.S. 2:802 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1507 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:522 (March 2007), repealed by the Department of Transportation and Development, Office of Aviation, LR 38:

§915. Project Support Documentation (Formerly §923)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997, R.S. 2:802 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1508 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:522 (March 2007), repealed by the Department of Transportation and Development, Office of Aviation, LR 38:

§917. Project Priority Rating System (Formerly §925)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1510 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:524 (March 2007), repealed by the Department of Transportation and Development, Office of Aviation, LR 38:

§919. Category I—Project Type (Formerly §927) (see Exhibit 1)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538

(June 1990), amended LR 24:1510 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:524 (March 2007), repealed by the Department of Transportation and Development, Office of Aviation, LR 38:

§921. Category II—Facility Usage (Formerly §929) (see Exhibit 2)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1511 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:525 (March 2007), repealed by the Department of Transportation and Development, Office of Aviation, LR 38:

§923. Category III—Sponsor Compliance (Formerly §931) (see Exhibit 3)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1512 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:525 (March 2007), repealed by the Department of Transportation and Development, Office of Aviation, LR 38:

§925. Category IV—Special Considerations (Formerly §933) (see Exhibit 4)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1513 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:526 (March 2007), repealed by the Department of Transportation and Development, Office of Aviation, LR 38:

§927. New Airports (Formerly §935)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1513 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:526 (March 2007), repealed by the Department of Transportation and Development, Office of Aviation, LR 38:

§929. Prioritization of Projects (Formerly §937)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1514 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:527 (March 2007), repealed by the Department of Transportation and Development, Office of Aviation, LR 38:

§931. Priority Ranking System (Formerly §939)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1514 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:527 (March 2007), repealed by the Department of Transportation and Development, Office of Aviation, LR 38:

§933. Program of Projects (Formerly §941)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997, R.S. 2:802 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1514 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:528 (March 2007), repealed by the Department of Transportation and Development, Office of Aviation, LR 38:

§935. Projects Eligible for FAA Funding (Formerly §943)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1515 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:528 (March 2007), repealed by the Department of Transportation and Development, Office of Aviation, LR 38:

§937. Exhibits (Formerly §945)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1515 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:528 (March 2007), repealed by the Department of Transportation and Development, Office of Aviation, LR 38:

Family Impact Statement

The proposed Rules for LAC 70 Part IX, Aviation and Public Transportation, 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.

1. What effect will this Rule have on the stability of the family? The proposed Rule will not affect the stability of the family.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? The proposed Rule will not affect the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? This Rule will not affect the functioning of the family.

4. What effect will this have on family earnings and family budget? This Rule will not affect the family earnings or family budget.

5. What effect will this have on the behavior and personal responsibility of children? This Rule will not affect the behavior or personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed Rule? No, the action proposed is strictly an amendment to rules governing Intermodal Transportation for the Department of Transportation and Development.

Public Comments

All interested persons so desiring shall submit oral or written data, views, comments or arguments no later than 30 days from the date of publication of this Notice of Intent. Such comments should be submitted to Bradley Brandt, Program Director, P.O. Box 94245, Baton Rouge, LA 70804-9245, Telephone (225) 279-3040.

Eric I. Kalivoda
Deputy Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Aviation Program Needs and Project Priority Process

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The estimated cost to implement the rules/amendments is $1,312 in FY 2011-2012, which accounts for the cost to publish the Notice of Intent and the Rules in the State Register. These amendments will update wording, airport project fiscal year programmed funding limits and basic airport project application procedures. This change will reflect the current construction needs and funding limits needed by the airports to complete larger projects in a timely manner. Other amendments are technical changes in how the Aviation Section conducts business with the airports within the state.

There would be no need to hire additional personnel in order to administer the program. The personnel within the aviation section are adequate to handle the administration of the program.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rules/amendments should have no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rules/amendments will have a material economic benefit to non-governmental groups, specifically to airports through the State Aviation and Airport Improvement Program. Commercial service airports will be able to receive up to $3.0 million in 100 percent state funding, from an existing maximum of $1.0 million. General aviation airports will be eligible to receive up to $1.0 million in 100 percent state funding, from an existing maximum of $250,000. The eligibility to receive increased state funding can facilitate a more robust airport improvement program as well as expedite projects that may have required awards over multiple years to fully fund a project.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The potential infusion of additional project award amounts through the State Aviation and Airport Improvement Program may result in increased economic opportunities for individuals working in fields related to the design, construction and maintenance of aviation facilities statewide.

Sherri H. LeBas, P.E.
Secretary
1204#011

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Feral Hog Trapping (LAC 76:V.130)

The Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission do herby advertise their intent to promulgate rules for trapping of feral hogs.

Title 76
WILDLIFE AND FISHERIES
Part V. Wild Quadrupeds and Wild Birds
Chapter 1. Wild Quadrupeds
§130. Feral Hog Trapping

A. Feral hogs may be trapped in cage or corral traps year-round by holders of a valid basic hunting license. Feral hogs may captured by use of snares year-round by holders of a valid trapping license.

B. Cage or corral traps must have an opening in the top of the trap that is no smaller than 22 inches x 22 inches or 25 inches in diameter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115 and 56:116.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 38:

Family Impact Statement

In accordance with Act No. 1183 of 1999, the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent. This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Public Comments

Interested persons may submit written comments relative to the proposed Rule to Mr. Kenny Ribbeck, Wildlife Division, Box 98000, Baton Rouge, LA 70898-9000, prior to Thursday, May 3, 2012.

Ann L. Taylor
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Feral Hog Trapping

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will have no impact on state or local governmental unit expenditures.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change may have a minimal, unquantifiable impact on revenue collections to the Conservation Fund. Currently, individuals who take feral hogs using snares are required to possess a valid basic hunting license issued by the Department of Wildlife and Fisheries.

Upon promulgation of the proposed rule, individuals who wish to take feral hogs using snares will be required to possess a valid trapping license issued by the department, but not a basic hunting license. Therefore, the proposed rule may cause a minimal increase in trapping licenses sold and a minimal decrease in the number of basic hunting licenses sold.

The fee for a resident under 15 years of age trapper license is $5; the fee for a resident 15 years of age or older trapper license is $25; the fee for a non-resident trapper license is $200; the fee for a resident basic hunting license is $15; the fee for non-resident basic hunting license is $150.

There is no anticipated impact on revenue collections of local governmental units as a result of the proposed rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule may affect individuals who take feral hogs using snares. Currently, individuals must possess a basic hunting license to take feral hogs using snares. Upon promulgation of the proposed rule, individuals will be required to possess a trapping license to take feral hogs using snares (but not a basic hunting license). This may increase the overall licensing costs for some individuals as a trapping license is $25 and a basic hunting license is $15.

Individuals who trap feral hogs using cages or corral traps may also be affected by the proposed rule because they will be required to use cages or corral traps which include an opening at the top of the trap that is no smaller than 22 inches by 22 inches or not less than 25 inches in diameter at any part of the opening. This opening will allow for the escape of some non-target species, including black bears. If these individuals do not possess such traps, they will have to modify their existing traps to meet these requirements or purchase new traps to meet these specifications prior to setting hog traps, which will likely result in increased costs to the individual.

The proposed rule may have a positive impact on the receipts and income of businesses and Individuals who manufacture and sell hog cages or corral traps or provide materials that could be used to construct or modify feral hog cages or corral traps.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change is anticipated to have no effect on competition. The proposed rule change may have a minimal effect on employment. Any positive effect on employment would be the result of the construction and sale of hog cages or corral traps that conform to the specifications defined in the proposed rule or the sale of materials used to construct hog cages or corral traps.

Lois Azzarello
Undersecretary
1204#017

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Reef Fish (LAC 76:VII.335)

The Wildlife and Fisheries Commission does hereby give notice of its intent to amend a Rule, LAC 76:VII.335, modifying existing reef fish harvest regulations. Authority for adoption of this Rule is included in R.S. 56:6(25)(a), 56:320.2, 56:326.1 and 56:326.3. Said Rule is attached to and made part of this Notice of Intent.

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and the final Rule, including but not limited to, the filing of the Fiscal and Economic Impact Statements, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Title 76
WILDLIFE AND FISHERIES
Part VII. Fish and Other Aquatic Life
Chapter 3. Saltwater Sport and Commercial Fishery
§335. Reef Fish—Harvest Regulations

A. Recreational bag limits regarding the harvest of reef fish: triggerfishes, amberjacks, grunts, wrasses, snappers, groupers, sea basses, tilefishes, and porgies, within and without Louisiana's territorial waters.

Species	Recreational Bag Limits
1. Red snapper	2 fish per person per day
2. Queen, mutton, blackfin, cubera, gray, dog, mahogany, silk, yellowtail snappers, schoolmaster and wenchman	10 fish per person per day (in aggregate)
3. Vermilion snapper, lane snapper, gray triggerfish, almaco jack, goldface tilefish, tilefish, blackline tilefish, anchor tilefish, blueline tilefish	20 per person per day (in aggregate)
4. Red hind, rock hind, speckled hind, black grouper, misty grouper, red grouper, snowy grouper, yellowedge grouper, yellowfin grouper, yellowmouth grouper, warsaw grouper, gag grouper, scamp	4 fish per person per day (in aggregate)with not more than 1 speckled hind and 1 warsaw grouper per vessel and with not more than 4 red grouper per person and not more than 2 gag grouper per person included in the bag limit
5. Greater amberjack	1 fish per person per day
6. Banded rudderfish and lesser amberjack	5 fish per person per day (in aggregate)
7. Hogfish	5 fish per person per day
8. No person shall possess goliath grouper or Nassau grouper whether taken from within or without Louisiana territorial waters per LAC 76:VII.337.	

B. - D.7. …

E. Recreational and commercial minimum and maximum size limits, unless otherwise noted.

Species	Minimum Size Limits
1. Red snapper	16 inches total length (Recreational) 13 inches total length (Commercial)
2. Gray, yellowtail, cubera, dog, mahogany snapper, and schoolmaster	12 inches total length
3. Lane snapper	8 inches total length
4. Mutton snapper	16 inches total length
5. Vermilion snapper	10 inches total length
6. Red grouper	20 inches total length (Recreational) 18 inches total length (Commercial)
7. Yellowfin grouper	20 inches total length
8. Gag grouper	22 inches total length
9. Black grouper	22 inches total length (Recreational) 24 inches total length (Commercial)
10. Scamp	16 inches total length
11. Greater amberjack	30 inches fork length (Recreational) 36 inches fork length (Commercial)
12. Black seabass	8 inches total length
13. Hogfish	12 inches fork length

Species	Minimum Size Limits
14. Banded rudderfish and lesser amberjack	14 inches fork length (minimum size) 22 inches fork length (maximum size)
15. Gray triggerfish	14 inches fork length

F. Definitions. Federal regulations 50 CFR Part 622.2 defines charter vessels and headboats as follows.

Charter Vessel—a vessel less than 100 gross tons that meets the requirements of the U.S. Coast Guard to carry six or fewer passengers for hire and that carries a passenger for hire at any time during the calendar year. A charter vessel with a commercial permit is considered to be operating as a charter vessel when it carries a passenger who pays a fee or when there are more than four persons aboard, including operator and crew.

Headboat—a vessel that holds a valid certificate of inspection issued by the U.S. Coast Guard to carry passengers for hire. A headboat with a commercial vessel permit is considered to be operating as a headboat when it carries a passenger who pays a fee or, in the case of persons aboard fishing for or possessing coastal migratory pelagic fish or Gulf reef fish, when there are more than four persons aboard, including operator and crew.

G. Seasons

1. Seasons for the commercial harvest of reef fish species or groups shall be closed during the periods listed below. Possession of reef fish in excess of the daily bag limit while on the water is prohibited during the specified closed season. Any reef fish harvested during the closed season shall not be purchased, sold, traded, bartered or exchanged or attempted to be purchased, sold, traded, bartered or exchanged. This prohibition on sale/purchase does not apply to reef fish that were harvested, landed ashore, sold and purchased prior to the closed season. Nothing shall prohibit the possession or sale of fish legally taken prior to the closure providing that all commercial dealers possessing reef fish taken legally prior to the closure shall maintain appropriate records in accordance with R.S. 56:306.5 and R.S. 56:306.6.

Species or Group	Closed Season
a. Greater Amberjack	March 1 through May 31

2. Seasons for the recreational harvest of reef fish species or groups listed below shall be closed during the periods listed below.

Species or Group	Closed Season
a. Gag	November 1 through May 31 of the following year.
b. Black, red, yellowfin, and yellowmouth groupers, rock hind red hind and scamp.	February 1 through March 31 of each year.
c. Red snapper	October 1 through May 31 of the following year.
d. Greater amberjack	June 1 through July 31 of each year.

3. Persons aboard a vessel for which the permits indicate both charter vessel/headboat for Gulf reef fish and commercial Gulf reef fish may continue to retain reef fish under the recreational take and possession limits specified in §335.A and §335.C, recreational seasons specified in §335.G.2 and size limits specified in §335.E, provided the vessel is operating as a validly licensed charter vessel or headboat with prepaid recreational charter fishermen aboard the vessel.

4. The provisions of §335.G apply to fish taken within or without Louisiana's territorial waters.

5. The secretary of the Department of Wildlife and Fisheries is hereby authorized, upon notification to the chairman of the Wildlife and Fisheries Commission, to close, open, re-open or re-close any reef fish season as needed when informed of such by the National Marine Fisheries Service in order to maintain consistency with modifications in the adjacent federal waters, should the federal seasons be modified.

H. Wholesale dealers are required to comply with the provisions of R.S. 56:306.5 and R.S. 56:306.6 when acquiring, purchasing, possessing and selling reef fish. Wholesale dealers shall maintain approval codes issued by NOAA Fisheries associated with all transactions of red snapper, groupers and tilefish species on purchases and sales on their records.

I.1. Devices

a. *Circle Hook*—a fishing hook designed and manufactured so that the point is turned perpendicularly back to the shank to form a generally circular or oval, shape.

b. *Dehooking Device*—a device intended to remove a hook embedded in a fish to release the fish with minimum damage.

c. *Venting Tool*—a device intended to deflate the abdominal cavity of a fish to release the fish with minimum damage.

2. For a person on board a vessel to fish for or possess Gulf reef fish in the Gulf EEZ, the vessel must possess on board and such person must use the gear as specified below.

a. Non-stainless Steel Circle Hooks. Non-stainless steel circle hooks are required when fishing with natural baits for reef fish.

b. Dehooking Device. At least one dehooking device is required and must be used to remove hooks embedded in Gulf reef fish with minimum damage. The hook removal device must be constructed to allow the hook to be secured and the barb shielded without re-engaging during the removal process. The dehooking end must be blunt, and all edges rounded. The device must be of a size appropriate to secure the range of hook sizes and styles used in the Gulf reef fish fishery.

c. Venting Tool. At least one venting tool is required and must be used to deflate the abdominal cavities of Gulf reef fish to release the fish with minimum damage. This tool must be a sharpened, hollow instrument, such as a hypodermic syringe with the plunger removed, or a 16-guage needle fixed to a hollow wooden dowel. A tool such as a knife or an ice-pick may not be used. The venting tool must be inserted into the fish at a 45–degree angle approximately 1 to 2 inches (2.54 to 5.08 cm) from the base of the pectoral fin. The tool must be inserted just deep enough to release the gases, so that the fish may be released with minimum damage.

J. No person who, pursuant to state or federal law, is subject to the jurisdiction of this state shall violate any

federal law, rule or regulation particularly those rules and regulations enacted pursuant to the Magnuson-Stevens Fishery Conservation Act and published in the Code of Federal Regulations as amended Title 50 and 15, for reef fishes while fishing in the EEZ, or possess, purchase, sell, barter, trade, or exchange reef fishes within or without the territorial boundaries of Louisiana in violation of any state or federal law, rule or regulation particularly those rules and regulations enacted pursuant to the Magnuson-Stevens Fishery Conservation Act and published in the Code of Federal Regulations as amended Title 50 and 15 law.

AUTHORITY NOTE: Promulgated in accordance with R.S.56:6(25)(a), R.S. 56:320.2(C), R.S. 56:326.1 and R.S. 56:326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16:539 (June 1990), amended LR 19:1442 (November 1993), LR 20:797 (July 1994), LR 21:1267 (November 1995), LR 22:860 (September 1996), LR 24:1138 (June 1998), LR 24:1139 (June 1998), LR 24:1972 (October 1998), LR 26:793 (April 2000), LR 26:1505 (July 2000), LR 26:2833 (December 2000), LR 31:3166 (December 2005), LR 33:1156 (June 2007), repromulgated LR 33:1397 (July 2007), amended LR 34:2209 (October 2008), LR 34:2682 (December 2008), LR 36:1791 (August 2010), LR 38:

Family Impact Statement

In accordance with Act 1183 of 1999, the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent. This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Public Comments

Interested persons may submit comments relative to the proposed Rule to Jason Adriance, Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, or via e-mail to jadriance@wlf.la.gov prior to Thursday, July 5, 2012.

Ann L. Taylor
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Reef Fish

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will have no impact on state or local governmental unit expenditures.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections to state or local governmental units as a result of the proposed rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change modifies LAC 76:VII.313, which establishes regulations for the harvest of reef fish species. Modifications include: changes the aggregate number from five to four that can be recreationally harvested daily of listed species; increases from one to four the number of red grouper that can be recreationally harvested daily; specifies that not more than two gag grouper can be recreationally harvested daily; decreases the minimum size limit for commercially harvested gag grouper from 24 inches to 22 inches; adjusts dates of closed season for recreational harvest of listed species; implements a closed season for the recreational harvest of listed species; establishes that the secretary of the Department of

Wildlife and Fisheries shall have the authority to create or adjust reef fishing seasons in order to maintain consistency with seasons for federal waters that are adjacent to Louisiana territorial waters; changes definitions of charter vessels and headboats to maintain consistency with 50 CFR 622.2; and replaces the words swim bladder with abdominal cavity and the word device with tool for consistency and clarification purposes.

The proposed rule change may have an unquantifiable positive economic affect on individuals who commercially harvest gag grouper because the proposed rule amendments will reduce the minimum size limit for commercially harvested gag grouper. This minimum size reduction may decrease the effort necessary to meet their individual fishing quota for gag grouper. From 2007 to 2011, an average of 19.8 individuals landed gag grouper in Louisiana each year.

From FY 07 to FY 11, an average of 487,391 individuals were licensed to recreationally fish in saltwater in Louisiana each year (resident and non-resident). A small portion of these anglers targeted reef fish. Recreational anglers who target reef fish may be positively and negatively impacted by the proposed rule change because the proposed rule change: will reduce the aggregate daily bag limit for many hinds and groupers, and scamps; will increase the daily bag limit for red grouper; will adjust and create new closed seasons for recreational harvest of reef fish; and may increase the abundance of the certain reef fish species.

Individuals who operate vessels that have both a Gulf of Mexico Charter Headboat for Reef Fish permit and a Gulf of Mexico Reef Fish permit (commercial) may be affected by the proposed rule change because it will establish that, for these individuals, any trip on which reef fish are landed commercially the crew size may not exceed four persons, including the captain. As of March 22, 2012, four vessels have both a valid and current Gulf of Mexico Charter Headboat for Reef Fish permit and a valid and current Gulf of Mexico Reef Fish permit, and a mailing address in Louisiana.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change is anticipated to have no effect on competition and employment in the public and private sectors.

Lois Azzarello
Undersecretary
1204#073

Evan Brasseaux
Staff Director
Legislative Fiscal Office

Administrative Code Update

CUMULATIVE: JANUARY-MARCH 2012

LAC Title	Part.Section	Effect	Location LR 38 Month	Page
4	III.101,106,112,114,127,131	Amended	Mar.	797
13	I.2901,2903,2904,2905,2911	Amended	Feb.	350
19	VII.101,103,105,107,109,111,113,115	Amended	Mar.	740
	VII.301,303,305,307,309,311,313,315	Adopted	Mar.	740
	VII.7701,7703,7705,7707,7709,7711,7713	Amended	Mar.	734
	VII.7715	Amended	Mar.	734
	VII.8701,8703,8705,8707,8709,8711,8713	Adopted	Mar.	734
	VII.8715	Adopted	Mar.	734
22	I.109	Amended	Feb.	429
	I.313	Amended	Mar.	830
	I.316	Amended	Mar.	835
	I.407	Amended	Feb.	432
	XV.1701,1703,1705,1707,1709,1711,1713	Adopted	Mar.	813
	XV.1715,1717,1719	Adopted	Mar.	813
28	I.503	Amended	Mar.	772
	IV.703	Amended	Feb.	354
	IV.1401	Amended	Feb.	354
	XLIII.167,168,169	Amended	Mar.	768
	LXXIX.2109,2317,2321,2323,2331	Amended	Mar.	769
	CXI.312,315,701,1803,1813,1817,1821,3303	Amended	Jan.	33
	CXI.317,1348,1808,2401,2403,2405,2407	Adopted	Jan.	33
	CXI.305,312,501	Amended	Mar.	747
	CXI.3305,3505	Amended	Jan.	33
	CXIII.303,307,501,1901,2501,2507	Amended	Mar.	748
	CXV.337,502	Amended	Jan.	41
	CXV.337,507	Amended	Jan.	39
	CXV.2317,2318,2325,2345,2351,2353	Amended	Mar.	754
	CXV.2318,2319	Amended	Mar.	761
	CXV.2357	Amended	Jan.	40
	CXXXI.240	Amended	Mar.	765
	CXXXI.240,703,705,707,721,723	Amended	Jan.	42
	CXXXI.343	Amended	Mar.	762
	CXXXI.411	Amended	Jan.	44
	CXXXI.413	Amended	Jan.	45
	CXXXI.415	Amended	Mar.	768
	CXXXI.605	Amended	Jan.	43
	CXXXI.607	Amended	Jan.	44
	CXXXI.665	Amended	Mar.	766
	CXXXI.668	Adopted	Mar.	767
	CXXXI.903,906,909,911	Amended	Mar.	762
	CXXXIX.103,512,513,515,517,701,901	Amended	Mar.	750
	CXXXIX.103,515	Amended	Jan.	37
	CXXXIX.1101,1303,1503,1703,1903,2701	Amended	Mar.	750
	CXXXIX.2707,2709	Amended	Mar.	750
	CXXXIX.3701,3703,3705,3707	Adopted	Jan.	37
	CXXXIX.3901,3903,3905	Adopted	Mar.	750
	CXLV.501,503,505	Amended	Feb.	352
	V.105,4909	Amended	Mar.	790
	V.108,109,307,1107,1109,1111,1513,1516	Amended	Mar.	774
	V.109,1101,1113,1127,1301,1516,1531,4145	Amended	Mar.	781
	V.2299,2519,2603,4105,4139,4511,4901	Amended	Mar.	774
	V.4903	Amended	Mar.	774
33	V.30103,30105,30107,30118,30123,30127	Amended	Jan.	99
	V.30124,30146,30207,30446	Adopted	Jan.	99
	V.30131,30140,30145,30173,30264,30307	Amended	Jan.	99
	V.30137,30144	Repealed	Jan.	99
	V.30401,30402,30432,30440,30452,30571	Amended	Jan.	99
	V.30573,30588,30905	Amended	Jan.	99
	VII.115,508	Amended	Jan.	46
40	I.2915	Amended	Mar.	836
43	I.1101,1102,1103,1104,1107,1108,1109,1110	Adopted	Jan.	125
	I.1111,1112,1113,1114,1115,1116,1117,1118	Adopted	Jan.	125
	I.1119,1120,1121,1122,1123,1124,1125,1129	Adopted	Jan.	125
	I.1130,1131,1132,1133,1134,1135,1136,1137	Adopted	Jan.	125
	I.1138,1139,1140,1141,1142,1145,1146,1147	Adopted	Jan.	125
	I.1148,1153,1154,1155,1156,1157,1161,1162	Adopted	Jan.	125
	I.1163,1164,1165,1166,1167,1168,1169,1175	Adopted	Jan.	125
	I.1176,1177	Adopted	Jan.	125
	V.401,403,405,407,409,411,413	Repealed	Jan.	125
43	XIII.301,303,305,307,309,311,313,315,317	Amended	Jan.	110
	XIII.312,322,2731,3501,3503,3505,3507	Adopted	Jan.	110
	XIII.319	Repealed	Jan.	110
	XIII.321,503,507,713,715,912,921,1105	Amended	Jan.	110
	XIII.923,2720	Repromulgated	Mar.	828
	XIII.1151,1511,1513,1933,2117,2705,2715	Amended	Jan.	110
	XIII.2716,2911,3323,3325,3331,3335,3339	Amended	Jan.	110
	XIII.3345,3351,5103	Amended	Jan.	110
	XIII.3509,3511,3513,3515	Adopted	Jan.	110
46	XXIX.101,103,105,107,109,111,113,115,301	Amended	Jan.	148
	XXIX.110	Adopted	Jan.	148
	XXIX.307,309,311,315,317,501,503,505,507	Amended	Jan.	148
	XXIX.509,511,513,515,517,519,521,701,703	Amended	Jan.	148
	XXIX.901,903,1103,1109,1111,1113,1301	Amended	Jan.	148
	XXIX.1501,1503,1505,1507,1509	Amended	Jan.	148
	XXIX.1511,1513	Adopted	Mar.	813
	XXXIII.124,306,403,409,415,1611,1709	Repromulgated	Feb.	355
	XXXIII.1611,1615	Amended	Mar.	817
	XXXIII.1711	Repromulgated	Feb.	355
	XLV.193,195,2501,2505,2507,2510,2511	Amended	Jan.	52
	XLV.2513,2525,2527,2529,2531,2533,2535	Repealed	Jan.	52
	XLV.2515,2517,2519,2521,2523,2536,2537	Amended	Jan.	52
	XLV.2539	Repealed	Jan.	52
	XLV.2540,2541,2543,2545,2547,2548,2549	Amended	Jan.	52
	XLV.2551,2553,2555,2557,2559,2561,2563	Amended	Jan.	52
	XLV.2565,2567,2569,2571,2575,5501,5505	Amended	Jan.	52
	XLV.2573	Adopted	Jan.	52
	XLV.5507,5509,5517,5519	Amended	Jan.	52
	XLVII.3331	Amended	Mar.	818
	XLIX.713	Amended	Jan.	51
	LXI.105	Amended	Mar.	835
	LXVI.901	Amended	Jan.	97
	LXVI.1127,1129	Adopted	Jan.	97
	LXXXV.712,1103,1105,1200,1201,1211	Amended	Feb.	356
	LXXXV.1209	Adopted	Feb.	356
48	I.5001,5003,5005,5007,5009,5011,5013,5015	Adopted	Jan.	63
	I.5016,5017,5019,5021,5023,5025,5027,5029	Adopted	Jan.	63
	I.5031,5033,5035,5037,5039,5041,5043,5045	Adopted	Jan.	63
	I.5049,5051,5053,5055,5057,5059,5061,5063	Adopted	Jan.	63
	I.5071,5073,5075,5077,5079,5081,5083,5085	Adopted	Jan.	63
	I.5087,5089,5090,5091,5093,5094,5095,5099	Adopted	Jan.	63
	I.6201,6203,6207,6209,6211,6213,6215,6217	Adopted	Feb.	401
	I.6219,6221,6223,6225,6227,6229,6233,6237	Adopted	Feb.	401
	I.6239,6241,6245,6247,6249,6251,6253,6255	Adopted	Feb.	401
	I.6259,6261,6265,6267,6269,6271,6273,6275	Adopted	Feb.	401
	I.6279,6281,6285,6287,6289,6291,6293,6295	Adopted	Feb.	401
	I.9001,9001,9031,9033,9035,9037,9041,9049	Amended	Feb.	371
	I.9007,9009,9011,9013,9015,9017,9019,9021	Adopted	Feb.	371
	I.9023,9025,9027,9029,9043,9045,9047,9063	Adopted	Feb.	371
	I.9051,9061,9065,9067,9071,9075,9077,9079	Amended	Feb.	371
	I.9069,9083,9085,9087,9089,9091,9093,9095	Adopted	Feb.	371
	I.9081	Amended	Feb.	371
	I.9097	Adopted	Feb.	371
	I.9741,9743	Amended	Mar.	824
50	II.20001,20007,20013,20015	Amended	Mar.	825
	V.301	Amended	Mar.	824
	XI.Chapter 17	Repealed	Feb.	366
	XV.Chapters 1-13	Repealed	Feb.	366
	XV.7701,7703,7705,7707,9133	Repealed	Feb.	365
	XV.9101,9113,9121	Amended	Feb.	365
	XXII.6101,6103,6301,6303,6501,6503,6501	Adopted	Mar.	820
	XXII.6503,6701,6703,6901,6903	Adopted	Mar.	820
	XXIX.117	Amended	Feb.	368
	XXXIII.101,103,105,107,301,303,305,501	Adopted	Feb.	360
	XXXIII.701,901	Adopted	Feb.	360
	XXXIII.2101,2103,2301,2303,2501,2701	Adopted	Feb.	363
	XXXIII.4101,4103,4301,4303,4305,4501	Adopted	Feb.	400
	XXXIII.4701,4703	Adopted	Feb.	400
	XXXIII.6101,6103,6301,6303,6305,6307	Adopted	Feb.	358
	XXXIII.6501,6701	Adopted	Feb.	358
	XXXIII.8101,8103,8303,8305,8501,8701	Adopted	Feb.	366
	XXXIII.10101,10103,10301,10303,10501	Adopted	Feb.	369
	XXXIII.10701,10703,10705,10707	Adopted	Feb.	369
	XXXIII.12101,12103,12301,12303,12501	Adopted	Feb.	427
50	XXXIII.12701,12703,12705,12707	Adopted	Feb.	427
	XXXIII.14101,14103,14301,14303,14501	Adopted	Feb.	426
	XXXIII.14701	Adopted	Feb.	426

LAC Title	Part.Section	Effect	Location LR 38 Month	Page
51	IX.325,327,331,333	Amended	Jan.	95
	IX.330	Adopted	Jan.	95
55	VII.315,3109	Amended	Jan.	144
	VII.3101,3103,3109	Amended	Jan.	145
	XXI.101,103,105,301,303,305,307,309,311	Amended	Jan.	48
	XXI.501,503	Adopted	Jan.	48
58	I.2511,2513	Amended	Mar.	836
	I.2521,2523	Repealed	Mar.	836
58	V.101	Amended	Mar.	796
61	V.101,303,304,703,907,1101,1103,1307	Amended	Mar.	799
	V.1503,2503,2713,2717,3101,3103,3105	Amended	Mar.	799
	3106,3107	Amended	Mar.	799
67	III.1983	Amended	Feb.	350
	VII.221,223	Adopted	Jan.	147
	VII.203,219	Amended	Jan.	147
71	I.501	Amended	Jan.	146
76	VII.367	Amended	Jan.	146
	VII.901	Repromulgated	Feb.	433

Potpourri

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Department of Agriculture and Forestry
Office of Agriculture and Environmental Sciences

Annual Quarantine Listing for 2012

In accordance with LAC 7:XV.107 and 109, we are hereby publishing the annual quarantine.

1.0 Sweetpotato Weevil (Cylas formicarius elegantulus Sum)

(a) In the United States: the states of Alabama, California, Florida, Georgia, Mississippi, North Carolina, South Carolina, Texas and any other state found to have the sweetpotato weevil.

(b) In the state of Louisiana:

1) the entire parishes of: Acadia, Allen, Ascension, Assumption, Avoyelles, Beauregard, Bienville, Bossier, Caddo, Calcasieu, Cameron, DeSoto, East Baton Rouge, East Feliciana, Evangeline, Grant, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Livingston, Natchitoches, Orleans, Plaquemines, Pointe Coupee, Rapides, Red River, Sabine, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermilion, Vernon, Washington, Webster, West Baton Rouge, West Feliciana.

2.0 Pink Bollworm (Pectinophora gossypiella Saunders)

Pink bollworm quarantined areas are divided into generally infested and/or suppressive areas as described by USDA-PPQ.

Arizona

(1) Generally infested area: the entire state.

California

(1) Generally infested area: the entire counties of: Imperial, Inyo, Los Angeles, Orange, Riverside, San Bernardino, and San Diego.

(2) Suppressive area: the entire counties of: Fresno, Kern, Kings, Madera, Merced, San Benito, and Tulare.

New Mexico

(1) Generally infested area: the entire state.

Texas

(1) Generally infested area: the entire state.

3.0 Phytophagous Snails

The states of Arizona and California.

4.0 Sugarcane Pests and Diseases

All states outside of Louisiana.

5.0 Lethal Yellowing

The state of Florida.

6.0 Texas Phoenix Decline

The states of Texas and Florida.

7.0 Tristeza, Xyloporosis, Psorosis, Exocortis

All citrus growing areas of the United States.

8.0 Burrowing Nematode (Radopholus similis)

The states of Florida and Hawaii and the Commonwealth of Puerto Rico.

9.0 Oak Wilt (Ceratocystis fagacearum)

Arkansas

Infected counties: Baxter, Benton, Boone, Carroll, Clay, Craighead, Crawford, Franklin, Fulton, Independence, Izard, Johnson, Lawrence, Logan, Madison, Marion, Mississippi, Nevada, Newton, Poinsett, Pope, Randolph, Scott, Searcy, Sharp, Stone, Washington, and Yell.

Illinois

Entire state.

Indiana

Entire state.

Iowa

Entire state.

Kansas

Infected counties: Anderson, Atchison, Cherokee, Doniphan, Douglas, Franklin, Jackson, Jefferson, Johnson, Leavenworth, Linn, Miami, Neosho, Pottawatomie, Shawnee, and Wyandotte.

Kentucky

Infected counties: Adair, Allen, Ballard, Bath, Bell, Boyd, Breathitt, Breckinridge, Bullitt, Butler, Caldwell, Calloway, Carter, Casey, Christian, Clay, Clinton, Cumberland, Daviess, Edmonson, Elliott, Estill, Fleming, Floyd, Graves, Grayson, Green, Greenup, Hancock, Hardin, Harlan, Hart, Henderson, Hopkins, Jefferson, Johnson, Knott, Knox, Lawrence, Lee, Leslie, Letcher, Lewis, Logan, McCracken, McLean, Magoffin, Marshall, Martin, Menifee, Metcalfe, Montgomery, Morgan, Muhlenberg, Nelson, Ohio, Oldham, Owsley, Perry, Pike, Powell, Pulaski, Rowan, Russell, Taylor, Todd, Trigg, Union, Warren, Wayne, and Webster.

Maryland

Infected counties: Allegany, Frederick, Garrett, and Washington.

Michigan

Infected counties: Barry, Barrien, Calhoun, Cass, Clare, Clinton, Grand Traverse, Kalamazoo, Kent, Lake, Livingston, Manistee, Missaukee, Muskegon, Oakland, Roscommon, St. Joseph, Van Buren, Washtenaw, Wyne, and Menominee.

Minnesota

Infected counties: Anoka, Aitkin, Blue Earth, Carver, Cass, Chicago, Crow Wing, Dakota, Dodge, Fillmore, Freeborn, Goodhue, Hennepin, Houston, Le Sueur, McLeod, Mille Lacs, Morrison, Mower, Nicollet, Olmsted, Ramsey, Rice, Scott, Sherburne, Sibley, Steele, Wabasha, Waseca, Washington, Winona, and Wright.

Missouri

Entire state.

Nebraska

Infected counties: Cass, Douglas, Nemaha, Otoe, Richardson, and Sarpy.

North Carolina

Infected counties: Buncombe, Burke, Haywood, Jackson, Lenoir, Macon, Madison, and Swain.

Ohio

Entire state.

Oklahoma

Infected counties: Adair, Cherokee, Craig, Delaware, Haskell, Latimer, LeFlore, Mayes, McCurtain, Mcintosh, Ottawa, Pittsburg, Rogers, Sequoyah, and Wagoner.

Pennsylvania

Infected counties: Adams, Allegheny, Armstrong, Beaver, Bedford, Blair, Butler, Cambria, Centre, Clarion, Clinton, Cumberland, Erie, Fayette, Franklin, Fulton, Greene, Huningdon, Indiana, Jefferson, Juniata, Lawrence, Mifflin, Perry, Somerset, Venango, Washington, and Westmoreland.

South Carolina

Infected counties: Chesterfield, Kershaw, Lancaster, Lee, and Richland.

Tennessee

Infected counties: Blount, Carter, Cocke, Cumberland, Grainger, Greene, Hamblen, Hancock, Hardeman, Hawkins, Jefferson, Knox, Lincoln, Loudon, Montgomery, Rhea, Roane, Robertson, Sevier, Sullivan, Union, Washington, and White.

Texas

Infected counties: Bandera, Bastrop, Bexar, Blanco, Basque, Burnett, Dallas, Erath, Fayette, Gillespie, Hamilton, Kendall, Kerr, Lampasas, Lavaca, McLennan, Midland, Tarrant, Travis, Williamson.

Virginia

Infected counties: Aleghany, Augusta, Bath, Botetoust, Clarke, Frederick, Giles, Highland, Lee, Loudoun, Montgomery, Page, Rockbridge, Rockingham, Scott, Shenandoah, Smyth, Warren, Washington, Wise, and Wythe.

West Virginia

Infected counties: all counties except Tucker and Webster.

Wisconsin

Infected counties: Adams, Brown, Buffalo, Chippewa, Clark, Columbia, Crawford, Dane, Dodge, Dunn, Eau Claire, Fond du Lac, Grant, Green, Green Lake, Iowa, Jackson, Jefferson, Juneau, Kenosha, La Crosse, Lafayette, Lincoln, Marquette, Milwaukee, Monroe, Oconto, Outagamie, Ozaukee, Pepin, Pierce, Polk, Portage, Racine, Richland, Rock, St. Croix, Sauk, Shawano, Trempealeau, Vernon, Walworth, Washington, Waukesha, Waupaca, Waushara, Winnebago, and Wood.

10.0Phony Peach

Alabama

Entire state.

Arkansas

Counties of Arkansas, Ashley, Bradley, Chicot, Columbia, Crittendon, Cross, Desha, Drew, Hempstead, Howard, Jefferson, Lafayette, Lee, Lincoln, Little River, Miller, Monroe, Nevada, Phillips, Pike, Poinsett, St. Francis, Sevier, Union, and Woodruff.

Florida

Entire state.

Georgia

Entire state.

Kentucky

County of McCracken.

Louisiana

Parishes of Bienville, Bossier, Caddo, Claiborne, DeSoto, Jackson, Lincoln, Morehouse, Natchitoches, Ouachita, Red River and Union.

Mississippi

Entire state.

Missouri

County of Dunklin.

North Carolina

Counties of Anson, Cumberland, Gaston, Hoke, Polk and Rutherford.

South Carolina

Counties of Aiken, Allendale, Bamberg, Barnwell, Cherokee, Chesterfield, Edgefield, Greenville, Lancaster, Laurens, Lexington, Marlboro, Orangeburg, Richland, Saluda, Spartanburg, Sumter, and York.

Tennessee

Counties of Chester, Crockett, Dyer, Fayette, Hardman, Hardin, Lake, Lauderdale, McNairy, Madison, and Weakley.

Texas

Counties of Anderson, Bexar, Brazos, Cherokee, Freestone, Limestone, McLennan, Milan, Rusk, San Augustine, Smith, and Upshur.

11.0 Citrus Canker (Xanthomonas citri subsp. citri)

Any areas designated as quarantined under the Federal Citrus Canker quarantine 7 CFR 301.75 et seq.

12.0Pine Shoot Beetle [Tomicus piniperda (L.)]

Any areas designated as quarantined under the Federal Pine Shoot Beetle quarantine 7 CFR 301.50 et seq.

13.0Citrus Greening [Candidatus Liberibacter asiaticus]

Louisiana

Infested parishes: Orleans and Washington.

Any other areas or states designated as infested under the Federal Citrus Greening and Asian Citrus Psyllid quarantine 7 CFR 301.76 et seq.

14.0Asian Citrus Psyllid [Diaphorina citri Kuwayama]

Louisiana

Infested parishes: Jefferson, Orleans, Lafourche, Plaquemines, St. Charles, St. James, St. Tammany, Tangipahoa and Terrebonne.

Any other areas or states designated as infested under the Federal Citrus Greening and Asian Citrus Psyllid quarantine 7 CFR 301.76 et seq.

Mike Strain, DVM
Commissioner

1204#033

POTPOURRI

Department of Children and Family Services

Louisiana's Annual Progress and Services Report

The Department of Children and Family Services (DCFS) announces opportunities for public review of the state's 2012 Annual Progress and Services Report (APSR). The APSR is a report on year three of the 2010-2014 Child and Family Services Plan (CFSP) with regard to the use of Title IV-B, Subpart 1 and Subpart 2, Title IV-E Chafee Foster Care Independence Program (CFCIP), Educational and Training Vouchers (ETV), and Child Abuse Prevention and Treatment Act (CAPTA) funds. The APSR is the report on the achievement of goals and objectives and/or outcomes, and amends any changes to the agency's CFSP.

Louisiana, through the DCFS, provides services that include child abuse prevention, child protection

investigations, family services, foster care, adoption and the youth transition services. The department will use its allotted funds provided under the Social Security Act, Title IV-B, Subpart 1, entitled the Stephanie Tubbs Jones Child Welfare Services Program, to provide child welfare services to prevent child abuse and neglect, to prevent foster care placement, to reunite families, to arrange adoptions, and to ensure adequate foster care. Title IV-B, Subpart 2, entitled Promoting Safe and Stable Families, funds services to support families and prevent the need for foster care. The CFCIP funds services to assist foster children 15 years of age and older who are likely to remain in foster care until 18 years of age. Former foster care recipients who are 18 years of age to 21 years of age, who have aged out of foster care, and those who were adopted or entered guardianship at age 16 years of age or older, are also eligible for services. The services include basic living skills training and education and employment initiatives. The CAPTA funding is used to complement and support the overall mission of child welfare with emphasis on developing, strengthening, and carrying out child abuse and neglect prevention and treatment programs.

The DCFS is encouraging public participation in the planning of services and the writing of the document. The report can be found for review on the internet under http://www.dss.state.la.us/index.cfm?md=pagebuilder&tmp=home&pid=132 then the 2011 APSR link.

Public Comments

Inquiries and comments on the plan may be submitted in writing to the DCFS, Attention: Child Welfare Administrator, P.O. Box 3318, Baton Rouge, LA 70821. The deadline for receipt of written comments is May 24, 2012 at 4 p.m.

Public Hearing

All interested persons will have the opportunity to provide comments and/or recommendations on the plan, orally or in writing, at a public hearing scheduled for May 24, 2012 at 10 a.m. in Room 1-127 of the Iberville Building located at 627 North Fourth Street, Baton Rouge.

Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (voice and TDD).

Ruth Johnson
Secretary

1204#080

POTPOURRI

Department of Children and Family Services

Social Services Block Grant Intended Use Report

The Department of Children and Family Services (DCFS) announces opportunities for public review of the state's pre-expenditure report on intended uses of Social Services Block Grant (SSBG) funds for the state fiscal year (SFY) beginning July 1, 2012, and ending June 30, 2013. The proposed SFY 2012-2013 SSBG Intended Use Report has been developed in compliance with the requirements of Section 2004 of the Social Security Act (SSA), as amended and includes information on the types of activities to be supported and the categories or characteristics of individuals to be served through use of the state's allocation of SSBG funds. Section 2004 of the SSA further requires that the SSBG pre-expenditure report shall be "made public within the state in such manner as to facilitate comment by any person." The DCFS, as the designated state services agency, will continue to administer programs funded under the SSBG in accordance with applicable statutory requirements and federal regulations. The DCFS, Child Welfare Section (CWS) will be responsible for provision of social services, by direct delivery and vendor purchase, through use of SFY 2012-2013 SSBG expenditures for adoption, child protection, and daycare for children, family services, and foster care/residential care services.

Louisiana, through DCFS/CWS, will utilize its allotted funds to provide comprehensive social services on behalf of children and families in fulfillment of legislative mandates for child protection and child welfare programs. These mandated services, and certain other essential social services, are provided without regard to income (WRI) to individuals in need. Individuals to be served also include low-income persons as defined in the intended use report who meet eligibility criteria for services provided through SSBG funding.

Services designated for provision through SSBG funding for SFY 2012–2013 are:

A. adoption (pre-placement to termination of parental rights);

B. child protection (investigation of child abuse/neglect reports, assessment, evaluation, social work intervention, shelter care, counseling, referrals);

C. daycare for children (direct care for portion of the 24-hour day as follow-up to investigations of child abuse/neglect);

D. family services (social work intervention subsequent to validation of a report of child abuse/neglect, counseling to high risk groups);

E. foster care/residential care services (foster, residential care, and treatment on a 24-hour basis).

Definitions for the proposed services are set forth in the intended use report.

Persons eligible for SSBG funded services include:

A. persons WRI, who are in need of adoption services, child protection, family services, and foster care/residential habilitation services;

B. individuals WRI who are recipients of Title IV-E adoption assistance;

C. recipients of Supplemental Security Income and recipients of Temporary Assistance for Needy Families (TANF) and those persons whose needs were taken into account in determining the needs of TANF recipients;

D. low-income persons (income eligible) whose gross monthly income is not more than 125 percent of the poverty level. A family of four with gross monthly income of not more than $1920 would qualify as income eligible for services;

E. persons receiving Title XIX (Medicaid) benefits and certain Medicaid applicants identified in the proposed plan as group eligibles.

Post expenditure reports for the SSBG program for SFY 2009 - 2010 and SFY 2010-2011 are included in the previous year's SSBG final intended use report for SFY 2011-2012.

Free copies are available by telephone request to (225) 342-2416 or by writing to the Administrator, Child Welfare Section, P.O. Box 3318, Baton Rouge, LA 70821.

The report is available for public review online at: http://www.dss.state.la.us/index.cfm?md=pagebuilder&tmp=home&pid=131, then select the 2012 SSBG link.

Public Comments

Inquiries and comments on the plan may be submitted in writing to the DCFS, Attention: Administrator, P.O. Box 3318, Baton Rouge, LA 70821. The deadline for receipt of written comments is May 24, 2012 at 4 p.m.

Public Hearing

All interested persons will have the opportunity to provide comments and/or recommendations on the plan, orally or in writing, at a public hearing scheduled for May 24, 2012 at 10:30 a.m. in Room 1-127 of the Iberville Building located at 627 North Fourth Street, Baton Rouge.

Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (voice and TDD).

Ruth Johnson
Secretary

1204#081

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Department of Health and Hospitals
Board of Embalmers and Funeral Directors

Public Hearing—Substantive Changes to Proposed Rules—Embalmers and Funeral Directors
(LAC 46:XXXVII.707, 709, 901, and 903)

The Louisiana State Board of Embalmers and Funeral Directors published a Notice of Intent to amend its rules in the February 20, 2012 edition of the *Louisiana Register*. The notice solicited written comments. As a result of its analysis of the written comments received, the LSBEFD proposes to amend Section 901 to read as follows.

In accordance with R.S. 49:968(H)(2), a public hearing on proposed substantive changes will be held by the board on May 24, 2012 at 9:30 am at the office of the Board of Embalmers and Funeral Directors: 3500 N. Causeway Blvd., Suite 1232, Metairie, LA 70002.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XXXVII. Embalmers and Funeral Directors
Chapter 9. Internship
§901. Requirements for Combination License

A. - A.7. ...

8. any internship must be registered and the intern may receive up to six months maximum credit prior to their matriculation in an accredited college of mortuary science (funeral service);

9. once the internship has been completed his/her combination license shall be issued;

10. any internship shall be considered stale/null and void and unavailable for consideration after the passage of 10 years.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, promulgated LR 5:277 (September 1979), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 15:10 (January 1989), LR 16:769 (September 1990), amended LR 30:2823 (December 2004), amended LR 34:2400 (November 2008), amended LR 38:

Kim W. Michel
Executive Director

1204#091

POTPOURRI

Department of Natural Resources
Office of Conservation
Environmental Division

Advanced Notice of Rulemaking and Solicitation of Comments on Water Well Notification and Construction
(LAC 43:VI, Subpart 1 and LAC 56:I)

The Department of Natural Resources, Office of Conservation is requesting comments on the following enumerated issue regarding Water Well Notification and Construction, LAC 43:VI, Subpart 1 and LAC 56:I.

In response to recommendations from the Louisiana Ground Water Resources Commission in the report entitled "Managing Louisiana's Groundwater Resources" delivered to the Louisiana Legislature on March 12, 2012 and in an effort to achieve 100 percent compliance with water well notification and agency evaluation requirements for proposed well installation for non-exempt well uses, such as, but not limited to, irrigation, public supply and industrial purposes, the agency hereby proposes to amend the regulations under ground water resources law for water well drillers to ensure that water well pre-installation notification agency evaluation has been performed and an appropriate agency response has been issued to the well owner prior to engaging in well construction operations. Any comments regarding this notice should be provided in written form on or before 4:30 p.m., May 20, 2012 and should be submitted to John Adams, Office of Conservation, Environmental Division, P.O. Box 94275-Capitol Station, Baton Rouge, LA 70804-9275 or by fax to (225) 342-3663. Persons commenting on this issue should reference this document as Docket No. ENV 12-03. Following review of comments received, the agency intends to begin the rulemaking process by proposing and publishing regulatory amendments to LAC 43:Part VI, Subpart 1 and LAC 56:Part I.

James H. Welsh
Commissioner

1204#075

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 25 claims in the amount of $104,720.95 were received for payment during the period March 1, 2012-March 31, 2012

There were 24 paid and 1 denied.

Latitude/longitude coordinates of reported underwater obstructions are:

2905.147	9034.260	Lafourche
2907.370	9032.640	Terrebonne
2910.060	9100.879	Terrebonne
2913.781	9028.434	Terrebonne
2917.863	8942.271	Plaquemines
2918.730	9147.428	St. Mary
2924.743	9002.656	Jefferson
2926.179	9033.741	Terrebonne
2935.260	9142.470	St. Mary
2941.494	8930.450	Plaquemines
2941.720	8949.860	Plaquemines
2948.617	8940.059	St. Bernard
2949.680	8916.380	St. Bernard
2950.170	8924.450	St. Bernard
2954.844	8918.259	St. Bernard
2954.869	8918.505	St. Bernard
2955.345	8939.168	St. Bernard
2957.553	8956.286	Plaquemines
3001.006	8925.520	St. Bernard
3001.572	8920.957	St. Bernard
3009.285	8951.050	St. Tammany
3010.285	8945.015	St. Tammany

A list of claimants and amounts paid can be obtained from Gwendolyn Thomas, Administrator, Fishermen's Gear Compensation Fund, P.O. Box 44277, Baton Rouge, LA 70804 or you can call (225) 342-9388.

Scott A. Angelle
Secretary

1204#043

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