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# Executive Orders

## EXECUTIVE ORDER BJ 09-06

Establishment of Unified Command Group and Subcommittees—Amends Executive Order No. BJ 08-45

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

WHEREAS, Executive Order No. BJ 2008-45, was issued on August 22, 2008, establishing the UCG and subcommittees, and declaring the members of the UCG; and

WHEREAS, it is necessary to amend Executive Order No. BJ 2008-45 to provide for an expansion of the UCG;

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: Section 1 of Executive Order No. BJ 2008-45, issued on August 22, 2008, is amended as follows:

The Director of the Governor's Office of Homeland Security and Emergency Preparedness shall serve as the Deputy Commander of the UCG. The UCG shall be composed of sixteen (16) members:

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

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

C. The Adjutant General, or the General's designee;

D. The Commissioner of the Department of Agriculture and Forestry, or the Commissioner's designee;

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

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

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

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

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

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

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

L. The Attorney General, or the General's designee;

M. The Executive Director of the Louisiana Workforce Commission, or the Secretary's designee;

N. The Executive Secretary of the Public Service Commission, or the Secretary's designee;

O. The Coordinator of the Governor's Office of Oil Spill, or the Coordinator's designee; and

P. The Chairman of the Louisiana Coastal Protection and Restoration Authority, or the Chairman's designee.

SECTION 2: All other sections, subsections, and paragraphs of Executive Order No. BJ 2008-45, issued on August 22, 2008, shall remain in full force and effect.

SECTION 3: This Order amends Executive Order No. BJ 2008-45, is effective upon signature, and shall continue in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the City of Baton Rouge, on this 2nd day of June, 2009.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne  
Secretary of State  
0906#076

## EXECUTIVE ORDER BJ 09-07

Solid Waste Disposal Facility Requirements and Economic Development

WHEREAS, the Louisiana Department of Environmental Quality is constitutionally and statutorily charged with protection of the environment of Louisiana;

WHEREAS, pursuant to Louisiana Revised Statute Title 30, Section 2002, the Louisiana Department of Environmental Quality is mandated to ensure this protection and, specifically, to strictly enforce programs for the safe and sanitary disposal of solid waste;

WHEREAS, local governments are chiefly responsible for parish land use determinations and zoning ordinances in order to effectively maximize its resources and navigate its future development both in economic terms and management of the quality of life of its citizens;

WHEREAS, currently under the Louisiana Administrative Code, Title 33, Part VII, the Louisiana Department of Environmental Quality, within its solid waste disposal permitting process, is unable to consider changes in local land use restrictions and zoning ordinances by local governments and their economic development requirements after an application has been submitted to the department; and

WHEREAS, it is important that the Department of Environmental Quality have the authority to consider permittee compliance with local zoning and land use restrictions prior to issuance of an order to commence operations of a waste disposal facility;

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: Prior to the Louisiana Department of Environmental Quality issuing an order to commence

operations, any solid waste disposal facility permittee, except for any transfer station, shall provide the department with a written resolution or authorization from the appropriate municipal or parish governing authority where the facility will be located, dated within one hundred eighty (180) days prior to such order and stating that the facility is in compliance with all existing local zoning and land use restrictions.

SECTION 2: The Louisiana Department of Environmental Quality shall immediately take all necessary steps to initiate through its rule-making authority all measures to incorporate the requirements of Section 1, above, into its solid waste regulations under Title 33 of the Louisiana Administrative Code;

SECTION 3: The Louisiana Department of Environmental Quality shall immediately take all necessary steps to implement the requirements of Section 1, above, into all solid waste disposal permits which have not yet received an order to commence from the department;

SECTION 4: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the City of Baton Rouge, on this 9th day of June, 2009.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne  
Secretary of State  
0906#077

#### EXECUTIVE ORDER BJ 09-08

Bond Allocation—Industrial Development Board  
of the Parish of St. Mary

WHEREAS, pursuant to the Tax Reform Act of 1986 and Act 51 of the 1986 Regular Session of the Louisiana Legislature, Executive Order No. BJ 2008-47 was issued to establish:

- (1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits (hereafter "Ceiling");
- (2) the procedure for obtaining an allocation of bonds under the Ceiling; and
- (3) a system of central record keeping for such allocations; and

WHEREAS, the Industrial Development Board (IDB) of the Parish of St. Mary, Louisiana, Inc. has requested an allocation from the 2009 Ceiling for Charenton Canal, L.L.C. to relocate its shipyard to west St. Mary Parish on the Charenton Canal in Franklin Parish in the State of Louisiana, where there are no water depth and lock restrictions, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

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

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 2009 Ceiling in the amount shown:

Amount of Allocation	Name of Issuer	Name of Project
\$2,500,000	IDB St. Mary Parish	Charenton Canal, Franklin, Louisiana

SECTION 2: The allocation granted herein shall be used only for the bond issue described in Section 1 and for the general purpose set forth in the "Application for Allocation of a Portion of the State of Louisiana's Private Activity Bond Ceiling" submitted in connection with the bond issue described in Section 1.

SECTION 3: The allocation granted herein shall be valid and in full force and effect through December 31, 2009, provided that such bonds are delivered to the initial purchasers thereof on or before September 8, 2009.

SECTION 4: All references in this Order to the singular shall include the plural, and all plural references shall include the singular.

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the City of Baton Rouge, on this 11th day of June 2009.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne  
Secretary of State  
0906#078

# Emergency Rules

## DECLARATION OF EMERGENCY

### Department of Agriculture and Forestry Office of Agriculture and Environmental Sciences

#### Restrictions on Application of Certain Pesticides (LAC 7:XXIII.143)

In accordance with the emergency provisions of the Administrative Procedure Act (R.S. 49:950 et seq.), specifically R.S. 49:953(B), and under the authority of R.S. 3:3203, the Commissioner of the Department of Agriculture and Forestry declares an emergency to exist and adopts by emergency process the attached rules and regulations for the application of an ultra low volume insecticide to be applied to cotton fields infested with plant bugs. The applications of insecticides in accordance with the current concentration regulations have not been sufficient to control plant bugs. Failure to allow the concentrations in ultra low volume (ULV) of Malathion and a ULV pyrethroid application (tank mixed) will allow the plant bugs the opportunity to destroy the cotton during the growing season, effectively destroying the cotton crop. The destruction of the cotton crop or a substantial portion of the cotton crop will cause irreparable harm to the economy of Northern Louisiana and to Louisiana agricultural producers thereby creating an imminent peril to the public welfare of Louisiana citizens. The commissioner has, therefore, determined that this Emergency Rule is necessary to prevent an imminent peril to the public welfare. This Emergency Rule becomes effective at sunrise on May 19, 2009 and shall remain in effect for 120 days, until sunrise on September 12, 2009.

#### Title 7

### AGRICULTURE AND ANIMALS

#### Part XXIII. Pesticides

#### Chapter 1. Advisory Commission on Pesticides

#### Subchapter I. Regulations Governing Application of Pesticides

#### §143. Restrictions on Application of Certain Pesticides

A. - O.5.b. ...

P. An Ultra Low Volume (ULV) Malathion and a ULV pyrethroid insecticide (tank mixed) may be applied to control plant bugs in cotton only between sunrise on May 19, 2009 and sunrise on September 12, 2009 subject to the following.

a. Applications shall be made at no less than seven days intervals at an application rate not to exceed the individual pesticide product labels and with no other dilutions or tank mixes.

b. Each application shall be reported, in writing and within 24 hours of the application, to the appropriate Boll Weevil Eradication Program District Office by the farmer, agricultural consultant or owner/operator. The report shall include the names and addresses of the farmer, agricultural consultant (if appropriate), owner/operator and applicator; the LDAF's applicator number; the field name or number;

the number of acres treated; the pesticide product rates; the WPS re-entry interval; the EPA registration number and total amount of each pesticide applied; the application date and time; and the wind speed and direction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:189 (April 1983), amended LR 10:196 (March 1984), LR 11:219 (March 1985), LR 11:942 (October 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:953 (September 1992), LR 19:1119 (September 1993), LR 21:668 (July 1995), LR 24:281 (February 1998), LR 24:2076 (November 1998), LR 26:1428 (July 2000), LR 26:1966 (September 2000), LR 27:279 (March 2001), LR 27:1672 (October 2001), LR 33:1855 (September 2007), LR 35:628 (April 2009), LR 35:

Mike Strain, DVM  
Commissioner

0906#006

## DECLARATION OF EMERGENCY

### Student Financial Assistance Commission Office of Student Financial Assistance

#### Louisiana GO Grant

(LAC 28:IV1201, 1203, 1205, 1207, 1211, 1213 and 1217)

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

This rulemaking will change the GO Grant Program to award eligible students only to the extent that funds are appropriated by the Legislature. In addition, the eligibility requirements will be changed to provide that the student must have an Education Cost Gap (ECG) at least equal to or greater than ECG Threshold in effect for the academic year. The "ECG Threshold" will be an amount set by the Board of Regents at least annually to provide the award to all students who are otherwise eligible and have an ECG at or greater than that amount.

This Emergency Rule is necessary to implement changes to the scholarship/grant programs to allow the Louisiana Office of Student Financial Assistance and state educational institutions to effectively administer these programs. A delay in promulgating rules would have an adverse impact on the financial welfare of the eligible students and the financial condition of their families. LASFAC has determined that this Emergency Rule is necessary in order to prevent imminent financial peril to the welfare of the affected students. This Declaration of Emergency is effective May 13, 2009, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act. (SG09108E)

**Title 28  
EDUCATION**

**Part IV. Student Financial Assistance—Higher  
Education Scholarship and Grant Programs**

**Chapter 12. Louisiana GO Grant**

**§1201. General Provisions**

A.1. - C.3. ...

D. The total amount awarded for GO Grants during any academic year is limited to the total amount appropriated for the award for the academic year. Eligibility for an award during any particular semester or term does not guarantee that a student will receive the GO Grant.

E. Allocation of Funds to postsecondary institutions.

1. For the 2009-2010 academic year, funds are allocated based on the institution's on-time billings for the 2008-2009 academic year divided by the total amount of on-time billings for 2008-2009 multiplied times the total amount appropriated for the 2009-2010 academic year.

2. Beginning with the 2010-2011 academic year and thereafter, the amount allocated will be determined by dividing the amount of the institution's prior year's allocation that was expended by the total amount appropriated for that academic year multiplied by the total amount appropriated for the current year.

F. Reallocation of Funds. Uncommitted funds allocated to a particular institution shall be reallocated if not committed by the deadline set by LOSFA. Uncommitted funds shall be apportioned among those institutions that have committed all funds allocated to the institution before the deadline and have students who are eligible for an award and did not receive it.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3023 and R.S. 17:3129.7.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:2614 (December 2007), amended LR 34:236 (February 2008), LR 35:

**§1203. Definitions**

A. The following definitions shall be applicable to the Louisiana GO Grant Program. 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.

\* \* \*

*Education Cost Gap (ECG) Threshold*—an amount set by the Board of Regents that is projected to provide the award to all students who are otherwise eligible and have an ECG at or greater than that amount.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3023 and R.S. 17:3129.7.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:2615 (December 2007), amended LR 34:236 (February 2008), LR 35:

**§1205. Application and Initial Eligibility**

A. - B.2. ...

3. have an Education Cost Gap (ECG) at least equal to or greater than the ECG threshold in effect for the academic year ; and

B.4.a. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3023 and R.S. 17:3129.7.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:2616 (December 2007), amended LR 34:238 (February 2008), LR 35:

**§1207. Continuing Eligibility**

A.- B.1. ...

2. The student must still have an ECG at least equal to or greater than the ECG threshold in effect for the academic year as determined using the ECG formula.

3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3023 and R.S. 17:3129.7.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:2616 (December 2007), amended LR 34:238 (February 2008), LR 35:

**§1211. Responsibilities of Eligible Louisiana  
Institutions**

A. - C.1. ...

2. payment request amount:

a. \$1,000 per semester for a student enrolled full time after the 14th class day in an eligible Louisiana institution that operates on a semester basis or \$667 (\$666 for the final term of the award year) per term for a student enrolled full time after the 9th class day in an eligible Louisiana institution that operates on a term basis OR the amount authorized for payment as announced in a LOSFA Bulletin prior to the billing date, whichever is less;

b. \$500 per semester for a student enrolled half time after the 14th class day in an eligible Louisiana institution that operates on a semester basis or \$333 (\$334 for the final term) per term for a student enrolled half time after the 9th class day in an eligible Louisiana institution that operates on a term basis OR the amount authorized for payment as announced in a LOSFA Bulletin prior to the billing date, whichever is less;

c. \$250 per semester for a student enrolled less than half time after the 14th class day in an eligible Louisiana institution that operates on a semester basis or \$167 (or \$166 for the final term) per term for a student enrolled less than half time after the 9th class day in an eligible Louisiana institution that operates on a term basis OR the amount authorized for payment as announced in a LOSFA Bulletin prior to the billing date, whichever is less;

d. for summer sessions, the difference between what the student was paid during the preceding fall semester or term, winter term, if applicable, and spring semester or term and the student's maximum annual award amount; provided the award for the summer session shall not exceed \$1,000 OR the amount authorized for payment as announced in a LOSFA bulletin prior to the billing date, whichever is less;

C.3. - F. ...

G. Each postsecondary institution shall have and follow a written policy describing that institution's procedures for selecting students for payment of a GO Grant. The policy must be available for audits conducted under §1209.B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3023 and R.S. 17:3129.7.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance,

LR 33:2617 (December 2007), amended LR 34:239 (February 2008), LR 35:

**§1213. Responsibilities of LOSFA**

- A.- D.2. ...
- 3. repealed.
- E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3023 and R.S. 17:3129.7.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:2617 (December 2007), amended LR 34:239 (February 2008), LR 35:

**§1217. Responsibilities of the Board of Regents**

At least on an annual basis, the Board of Regents shall review and adjust, as necessary, the ECG threshold, to provide grants to eligible students with the funds appropriated for the GO Grant Program and shall provide notice to LOSFA of any change.

B. In the event of receipt of notice of a shortfall and additional funds are not allocated for payment of all anticipated awards for subsequent semesters, terms and sessions during the academic year, the Board of Regents shall develop, approve and deliver a plan to LOSFA to address the shortfall.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3023 and R.S. 17:3129.7.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 35:

George Badge Eldredge  
General Counsel

0906#004

**DECLARATION OF EMERGENCY**

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

Ambulatory Surgical Centers  
Reimbursement Rate Reduction  
(LAC 50:XI.Chapter 75)

The Department of Health and Hospitals, Bureau of Health Services Financing repeals the April 20, 1977 Rule governing ambulatory surgical services and adopts LAC 50:XI.Chapter 75 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 19 of the 2008 Regular Session of the Louisiana Legislature which states: "The secretary shall, subject to the review and approval of the Joint Legislative Committee on the Budget, implement reductions in the Medicaid program as necessary to control expenditures to the level appropriated in this Schedule. Notwithstanding any law to the contrary, the secretary is hereby directed to utilize various cost-containment measures to accomplish these reductions, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations and other measures as allowed by federal law." This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R. S. 49:953(B)(1) et seq., and shall be in

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

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

As a result of a budgetary shortfall, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule to amend the provisions governing the reimbursement methodology for ambulatory surgical centers to reduce the reimbursement rates paid for ambulatory surgical services (*Louisiana Register*, Volume 35, Number 3). The department now proposes to amend the February 26, 2009 Emergency Rule to further clarify the provisions governing the reimbursement methodology for surgical procedures not included on the Medicaid fee schedule. This action is necessary to avoid a budget deficit in the medical assistance programs.

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

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part XI. Clinic Services**

**Subpart 11. Ambulatory Surgical Centers**

**Chapter 75. Reimbursement**

**§7501. General Provisions**

A. The services rendered by ambulatory surgical centers must be medically necessary preventive, diagnostic, therapeutic, rehabilitative or palliative services furnished to an outpatient by or under the direction of a physician or dentist in a facility which is not part of a hospital but which is organized and operated to provide medical care to patients.

B. This type of facility will not provide services or accommodations for patients to stay overnight. Therefore, the ambulatory surgical center shall have a system to transfer patients requiring emergency admittance or overnight care to a fully licensed and certified Title XIX hospital following any surgical procedure performed at the facility.

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

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

**§7503. Reimbursement Methodology**

A. The reimbursement for surgical procedures performed in an ambulatory surgical center is a flat fee per service in accordance with the four payment groups established for ambulatory surgery services as specified on the Medicaid fee schedule.

1. The flat fee reimbursement is for facility charges only, which covers all operative functions associated with the performance of a medically necessary surgery including

admission, patient history and physical, laboratory tests, operating room staffing, recovery room charges, all supplies related to the surgical care of the patient and discharge.

2. The flat fee excludes payments for the physician performing the surgery, the radiologist and the anesthesiologist when these professionals are not under contract with the ambulatory surgery center.

B. For those surgical procedures not included on the Medicaid fee schedule, the reimbursement is the established flat fee for the service.

C. Effective for dates of service on or after February 26, 2009, the reimbursement for surgical services provided by an ambulatory surgical center shall be reduced by 3.5 percent of the rate in effect on February 25, 2009.

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

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

Implementation of the provisions of this Rule is contingent upon the approval of the Joint Legislative Committee on the Budget and the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

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

Alan Levine  
Secretary

0906#050

## **DECLARATION OF EMERGENCY**

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

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

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

In compliance with the directives of Act 306 of the 2005 Regular Session of the Louisiana Legislature, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions governing the establishment and maintenance of the Direct Service Worker (DSW) registry and defined the qualifications and requirements for direct service workers (*Louisiana Register*, Volume 32, Number 11). The November 20, 2006 Rule was amended to further clarify the provisions governing the DSW registry (*Louisiana Register*, Volume 33, Number 1). The department promulgated an

Emergency Rule to amend the provisions of the January 20, 2007 Rule governing the training curriculum for direct service workers to require that licensed providers and other state approved training entities that wish to conduct training for direct service workers, and do not have an approved training curriculum, must use the department-approved training curriculum (*Louisiana Register*, Volume 35, Number 3). This Emergency Rule is being promulgated to continue the provisions of the March 1, 2009 Emergency Rule.

This action is being taken to promote the health and well-being of Louisiana citizens by assuring that direct service workers receive standardized training.

Effective July 3, 2009, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the training curriculum for direct service workers.

## **Title 48**

### **PUBLIC HEALTH—GENERAL**

#### **Part I. General Administration**

#### **Subpart 3. Health Standards**

#### **Chapter 92. Direct Service Worker Registry**

#### **Subchapter B. Training and Competency Requirements**

#### **§9215. Training Curriculum**

A. - B.3. ...

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

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

- a. the name of the training coordinator and his/her qualifications; and
- b. a list of any other instructors.
- c. Repealed.

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

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

4. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2060 (November 2006), amended LR 33:96 (January 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible

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

Alan Levine  
Secretary

0906#056

## DECLARATION OF EMERGENCY

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

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends LAC 50:XI.6901 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 19 of the 2008 Regular Session of the Louisiana Legislature which states: "The secretary shall, subject to the review and approval of the Joint Legislative Committee on the Budget, implement reductions in the Medicaid program as necessary to control expenditures to the level appropriated in this schedule. Notwithstanding any law to the contrary, the secretary is hereby directed to utilize various cost-containment measures to accomplish these reductions, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations and other measures as allowed by federal law." This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:950 et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repromulgated all of the Rules governing Medicaid reimbursement for co-insurance and deductibles for Medicare Part B claims for hemodialysis services (*Louisiana Register*, Volume 30, Number 5). As a result of a budgetary shortfall, the bureau promulgated an Emergency Rule to amend the provisions of the May 20, 2004 Rule to reduce the reimbursement rates paid for services provided by end stage renal disease (ERSD) facilities (*Louisiana Register*, Volume 35, Number 3). This Emergency Rule is being promulgated to continue the provisions of the February 26, 2009 Emergency Rule. This action is necessary to avoid a budget deficit in the medical assistance programs.

Effective June 27, 2009, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for services provided by end stage renal disease facilities to reduce the reimbursement rates.

## Title 50 PUBLIC HEALTH—MEDICAL ASSISTANCE Part XI. Clinic Services

### Subpart 9. End Stage Renal Disease Facilities

#### Chapter 69. Reimbursement

##### §6901. Non-Medicare Claims

A. For non-Medicare claims, end stage renal disease (ESRD) facilities are reimbursed a hemodialysis composite rate. The composite rate is a comprehensive payment for the complete hemodialysis treatment in which the facility assumes responsibility for providing all medically necessary routine dialysis services.

B. Covered non-routine dialysis services, continuous ambulatory peritoneal dialysis (CAPD), continuous cycling peritoneal dialysis (CCPD), epogen (EPO) and injectable drugs are reimbursed separately from the composite rate.

C. Effective for dates of service on or after February 26, 2009, the reimbursement to ERSD facilities shall be reduced by 3.5 percent of the rates in effect on February 25, 2009.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1022 (May 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

##### §6903. Medicare Part B Claims

A. For Medicare Part B claims, ESRD facilities are reimbursed for full co-insurance and deductibles.

B. The Medicare payment plus the amount of the Medicaid payment (if any) shall be considered to be payment in full for the service. The recipient does not have any legal liability to make payment for the service.

C. Effective for dates of service on or after February 26, 2009, the reimbursement to ERSD facilities for Medicare Part B claims shall be reduced by 3.5 percent of the rates in effect on February 25, 2009.

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

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

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

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

Alan Levine  
Secretary

0906#057

## DECLARATION OF EMERGENCY

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

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

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 48:I.12527, 12533 and 12541 in the Medical Assistance Program as authorized by R.S. 36:254 and 40:2116. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgated a Rule to adopt provisions governing the facility need review process (*Louisiana Register*, Volume 21, Number 8). The department amended the August 20, 1995 Rule to establish provisions governing the exemption from the facility need review process for emergency replacement of facilities destroyed by fire, a natural disaster, or potential health hazard (*Louisiana Register*, Volume 32, Number 5). The department promulgated an Emergency Rule to amend the May 20, 2006 Rule to establish provisions allowing a Medicaid certified nursing facility to protect its facility need review bed approvals for a period of time due to a declared disaster or other emergency situation (*Louisiana Register*, Volume 34, Number 10). The department subsequently promulgated an Emergency Rule to amend the October 11, 2008 Emergency Rule to further clarify these provisions (*Louisiana Register*, Volume 35, Number 1). The department promulgated an Emergency Rule to amend the January 20, 2009 Emergency Rule to repromulgate these provisions in the appropriate place in the *Louisiana Administrative Code* (*Louisiana Register*, Volume 35, Number 3). The department now proposes to amend the March 20, 2009 Emergency Rule governing the facility need review process to incorporate provisions that will allow nursing facilities 120 days to re-license and re-enroll Medicaid beds after placing the beds in alternate use status.

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

Effective June 20, 2009, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions of the March 20, 2009 Emergency Rule governing facility need review for Medicaid certified nursing facilities.

## Title 48

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

#### Chapter 125. Facility Need Review Subchapter B. Determination of Bed or Unit Need §12513. Alternate Use of Licensed Approved Title XIX Beds

A. - D. ...

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

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

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

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

#### Subchapter C. Revocation of Facility Need Review Approvals

##### §12527. General Provisions

A. - C. ...

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

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

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:806 (August 1995), amended LR 25:1250 (July 1999), LR 28:2190 (October 2002), LR 30:1023 (May 2004), LR 32:845 (May 2006), LR 34:2619 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

**Subchapter F. Exception Criteria for Bed Approvals**  
**§12533. General Provisions**

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

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

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

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

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

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

2. the nursing facility resumes operating as a nursing home in the same service area within two years of the executive order or proclamation of emergency or disaster in accordance with R.S. 29:724 or R.S. 29:766; and

3. the nursing facility continues to submit required documentation and information to the department.

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

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

2. a nursing facility which fails to resume operations as a nursing facility in the same service area within two years of the executive order or proclamation of emergency or disaster in accordance with R.S. 29:724 or R.S. 29:766.

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

C.1. - M. Repealed.

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

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

**Subchapter G. Administrative Appeals**  
**§12541. Appeal Procedures**

A. Upon refusal of the department to grant a FNR approval, only the applicant shall have the right to request an administrative appeal.

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

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

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

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

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

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

2. The hearing shall be open to the public.

D. The hearing officer shall have the power to:

1. administer oaths and affirmations;

2. regulate the course of the hearings;

3. set the time and place for continued hearings;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. As soon as practicable, but not more than 45 days after the conclusion of a hearing, the hearing officer shall send his written decision and the reasons for the decision to

the applicant, the department, and any interested parties who participated in the hearing.

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

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

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

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

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

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

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

Alan Levine  
Secretary

0906#051

## DECLARATION OF EMERGENCY

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

Home and Community-Based Services Waivers  
Elderly and Disabled Adults  
(LAC 50:XXI.8101, 8105, 8107, 8301, 8308, and 8701)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amends LAC 50:XXI.8101, 8105, 8301, 8701 and adopts §8107 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions governing home and community-based waiver services for elderly and disabled adults in LAC 50:XXI.Chapters 81-89 (*Louisiana Register*, Volume 30, Number 8). The Department of Health and Hospitals, Office of Aging and Adult Services subsequently amended the provisions of the August 20, 2004 Rule to include Adult Day Health Care services as a covered service in the waiver (*Louisiana Register*, Volume 34, Number 6). To assure compliance with federal requirements regarding the cost-effectiveness of the Elderly and Disabled Adults (EDA) Waiver Program, the department promulgated an Emergency

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

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

#### **Title 50**

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

#### **Waivers**

#### **Subpart 7. Elderly and Disabled Adults Waiver**

#### **Chapter 81. General Provisions**

#### **§8101. Introduction**

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

1. 65 years of age or older; or
2. 21-64 years of age and disabled according to Medicaid standards or the Social Security Administration's disability criteria; and
3. meet nursing facility level of care requirements; and
4. are at imminent risk of nursing facility placement.
  - a. An individual is considered to be at imminent risk of nursing facility placement when he or she meets one of the following criteria:
    - i. is likely to require admission to a nursing facility within the next 120 days;
    - ii. faces a substantial possibility of deterioration in mental condition, physical condition or functioning if either home and community-based services or nursing facility services are not provided within 120 days; or
    - iii. has a primary caregiver who has a disability or is age 70 or older.

B. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1698 (August 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Division of Long Term Supports and Services, LR

32:1245 (July 2006), amended by the Department Of Health and Hospitals, Office of Aging and Adult Services, LR 34:1029 (June 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:

#### **§8105. Programmatic Allocation of Waiver Opportunities**

A. ...

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

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

a. - c. Repealed.

2. individuals presently residing in nursing facilities;

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

a. Adult Day Health Care (ADHC) Waiver;

b. New Opportunities Waiver (NOW);

c. Supports Waiver;

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

e. Long Term—Personal Care Services (LT-PCS)

Program; and

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

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

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

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

E. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1699 (August 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Division of Long Term Supports and Services, LR 32:1245 (July 2006), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:1030 (June 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:

#### **§8107. Resource Assessment Process**

A. Each EDA Waiver applicant/recipient shall be assessed using a uniform assessment tool called the Minimum Data Set-Home Care (MDS-HC). The MDS-HC is designed to verify that an individual meets a nursing facility

level of care and to identify his/her need for support in conducting activities of daily living (ADLs) and instrumental activities of daily living (IADLs). The MDS-HC assessment generates a score that assigns the individual to a Resource Utilization Group (RUG-III/HC).

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

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

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

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

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

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

conditions:

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

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

- a. dehydration;
  - i. Repealed.
- b. any stasis ulcer;
  - i. a stasis ulcer is a breakdown of the skin caused by fluid build-up in the skin from poor circulation;
- c. end-stage/terminal illness;
  - i. Repealed.
- d. chemotherapy;
- e. blood transfusion;
- f. skin problem;
- g. cerebral palsy diagnosis;
- h. urinary tract infection;
- i. hemiplegia diagnosis;

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

- j. dialysis treatment;
  - i. Repealed.

k. diagnosis of pneumonia;

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

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

n. - o. Repealed.

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

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

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

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

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

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

a. the budget allocation methodology was incorrectly applied and the correct application of the methodology would result in an increase in the annual services budget amount; or

b. he/she needs an increase in the annual services budget to avoid entering into a nursing facility.

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

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

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

## Chapter 83. Services

### §8301. Service Descriptions

A. - A.3. ...

a. There is a lifetime cap of \$3,000 per recipient for this service.

4. ...

5. Companion Services include care, supervision and socialization provided during the day or night to a participant with functional impairments, as approved in the comprehensive plan of care.

a. Companions may assist or supervise participants who:

- i. are unable to safely stay alone;
- ii. are unable to self direct their own care; or
- iii. possess limited mobility or cognitive function

to such an extent that they may not be able to utilize the PERS and/or evacuate in dangerous situations without assistance or general supervision.

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

c. Companion services include the following activities:

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

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

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

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

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

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

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

e. Persons designated as the personal representative of an individual receiving companion services may not be the paid direct service worker of the individual they are representing.

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

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

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

### **§8303. Comprehensive Plan of Care**

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

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

1. - 3. Repealed.

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

1. types and number of services (including waiver and all other services) necessary to maintain the waiver recipient safely in the community;

2. individual cost of each service (including waiver and all other services); and

3. the cost of services covered by the CPOC.

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

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

### **Chapter 87. Waiver Cost Effectiveness**

#### **§8701. Waiver Costs Limit**

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

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

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

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

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

Alan Levine  
Secretary

0906#052

### **DECLARATION OF EMERGENCY**

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

Hospital Services  
Inpatient Hospitals Reimbursement Rate Reduction  
(LAC 50:V.953, 955, and 959)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:V.953, 955 and 959 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 19 of the 2008 Regular Session of the Louisiana Legislature which states: "The secretary shall, subject to the review and approval of the Joint Legislative

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part V. Hospital Services**

**Subpart 1. Inpatient Hospitals**

**Chapter 9. Non-Rural, Non-State Hospitals**

**Subchapter B. Reimbursement Methodology**

**§953. Acute Care Hospitals**

A. - B.3. ...

C. Effective for dates of service on or after February 20, 2009, the prospective per diem rate paid to acute care hospitals shall be reduced by 3.5 percent of the per diem rate on file as of February 19, 2009.

1. Payments to the following hospitals and/or specialty units for inpatient hospital services shall be exempted from these reductions:

a. small rural hospitals, as defined in R.S. 40:1300.143; and

b. high Medicaid hospitals, level III Regional Neonatal Intensive Care Units and level I Pediatric Intensive Care Units as defined in R.S. 46.979.

2. For the purposes of qualifying for the exemption to the reimbursement reduction as a high Medicaid hospital, the following conditions must be met.

a. The inpatient Medicaid days utilization rate for high Medicaid hospitals shall be calculated based on the cost report filed for the period ending in state fiscal year 2007 and received by the department prior to April 20, 2008.

b. Only Medicaid covered days for inpatient hospital services, which include newborn and distinct part psychiatric unit days, are included in this calculation.

c. Inpatient stays covered by Medicare Part A cannot be included in the determination of the Medicaid inpatient utilization days rate.

D. Effective for dates of service on or after February 20, 2009, the amount appropriated for quarterly supplemental payments to non-rural, non-state acute care hospitals that qualify as a high Medicaid hospital shall be reduced to \$4,925,000. Each qualifying hospital's quarterly supplemental payment shall be calculated based on the pro rata share of the reduced appropriation.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 34:876 (May 2008), amended LR 34:877 (May 2008), LR 35:

**§955. Long Term Hospitals**

A. ...

B. For dates of service on or after February 20, 2009, the prospective per diem rate paid to long term hospitals for inpatient services shall be reduced by 3.5 percent of the rate on file as of February 19, 2009.

1. Payments for inpatient hospital services to high Medicaid hospitals classified as long term hospitals shall be exempted from these reductions.

2. For the purposes of qualifying for the exemption to the reimbursement reduction as a high Medicaid hospital, the following conditions must be met.

a. The inpatient Medicaid days utilization rate for high Medicaid hospitals shall be calculated based on the cost report filed for the period ending in state fiscal year 2007 and received by the department prior to April 20, 2008.

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted Rules which established the prospective reimbursement methodology for inpatient hospital services provided in free-standing psychiatric hospitals and distinct part psychiatric units of acute care general hospitals (*Louisiana Register*, Volume 19, Number 6) as well as in private (non-state) acute care general hospitals (*Louisiana Register*, Volume 20, Number 6). In compliance with the directives of Act 17 of the 2006 Regular Session of the Louisiana Legislature, the bureau amended the reimbursement methodology for inpatient hospital services to increase the Medicaid reimbursement rates paid to private hospitals and free-standing and distinct part psychiatric units (*Louisiana Register*, Volume 33, Number 2). The bureau subsequently adopted a Rule to provide for a supplemental Medicaid payment to non-rural, non-state acute care hospitals for having a Medicaid inpatient utilization greater than 30 percent (hereafter referred to as high Medicaid) and teaching hospitals for furnishing additional graduate medical education services as a result of the suspension of training programs at the Medical Center of Louisiana in New Orleans due to the impact of Hurricane Katrina (*Louisiana Register*, Volume 34, Number 5).

As a result of a budgetary shortfall, the Department of Health and Hospitals, Bureau of Health Services Financing determined that it was necessary to amend the provisions governing the reimbursement methodology for inpatient hospital services to reduce the current reimbursement rates (*Louisiana Register*, Volume 35, Number 2). This Emergency Rule is being promulgated to continue the provisions of the February 20, 2009 Emergency Rule. This action is necessary to avoid a budget deficit in the medical assistance programs.

Taking into consideration the 3.5 percent reduction in per diem rates and the 3 percent reduction in the last two quarterly supplemental payments to high Medicaid hospitals in state fiscal year 2009, the department has carefully reviewed the proposed rates and is satisfied that they are consistent with efficiency, economy and quality of care and are sufficient to enlist enough providers so that private (non-state) inpatient hospital services under the State Plan are available at least to the extent that they are available to the general population in the state.

Effective June 21, 2009, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for inpatient hospital services to reduce the reimbursement rates.

b. Only Medicaid covered days for inpatient hospital services, which include newborn and distinct part psychiatric unit days, are included in this calculation.

c. Inpatient stays covered by Medicare Part A cannot be included in the determination of the Medicaid inpatient utilization days rate.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 34:876 (May 2008), amended LR 35:

#### **§959. Inpatient Psychiatric Hospital Services**

A. ...

B. Effective for dates of service on or after February 20, 2009, the prospective per diem rate paid to non-rural, non-state free-standing psychiatric hospitals and distinct part psychiatric units shall be reduced by 3.5 percent of the rate on file as of February 19, 2009.

1. Distinct part psychiatric units that operate within an acute care hospital that qualifies as a high Medicaid hospital, as defined in §953.C.2, are exempt from the rate reduction.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 34:876 (May 2008), amended LR 35:

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

Alan Levine  
Secretary

0906#058

### **DECLARATION OF EMERGENCY**

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

Intermediate Care Facilities for Persons  
with Developmental Disabilities  
Reimbursement Rate Reduction  
(LAC 50:VII.32903 and 32913)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:VII.32903 and 32913 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 19 of the 2008 Regular Session of the Louisiana Legislature which states: "The secretary shall, subject to the review and approval of the Joint Legislative Committee on the Budget, implement reductions in the Medicaid program as necessary to control expenditures to the level appropriated in this schedule. Notwithstanding any law to the contrary, the secretary is hereby directed to utilize various cost-containment measures to accomplish these reductions, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations and other measures as allowed by federal law."

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgated provisions governing the reimbursement methodology for intermediate care facilities for persons with developmental disabilities that utilize the Inventory for Client and Agency Planning instruments (*Louisiana Register*, Volume 31, Number 9). Provisions governing the reimbursement methodology for hospital leave of absence days were also included in the Rule. The September 20, 2005 Rule was amended to include reimbursement of certain medical supply costs for Medicaid recipients who are medically fragile (*Louisiana Register*, Volume 33, Number 3) and to implement a wage enhancement payment for direct care staff employed with the facility (*Louisiana Register*, Volume 33, Number 10). Effective for dates of service on or after July 1, 2007, the reimbursement paid to these facilities was increased in accordance with the reimbursement methodology established in the September 20, 2005 Rule. As a result of a budgetary shortfall, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule to reduce the reimbursement rate paid to non-state intermediate care facilities for persons with developmental disabilities (*Louisiana Register*, Volume 35, Number 2). This Emergency Rule is being promulgated to continue the provisions of the February 20, 2009 Emergency Rule.

This action is necessary to avoid a budget deficit in the medical assistance programs. Taking into consideration the 3.5 percent reduction in per diem rates in state fiscal year 2009, the department has carefully reviewed the proposed rates and is satisfied that they are consistent with efficiency, economy and quality of care and are sufficient to enlist enough providers so that private (non-state) intermediate care facility services for persons with developmental disabilities under the State Plan are available at least to the extent that they are available to the general population in the state.

Effective June 21, 2009, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for non-state intermediate care facilities for persons with developmental disabilities to reduce the reimbursement rates.

#### **Title 50**

#### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part VII. Long Term Care**

#### **Subpart 3. Intermediate Care Facilities for Persons with Developmental Disabilities**

#### **Chapter 329. Reimbursement Methodology**

#### **Subchapter A. Non-State Facilities**

#### **§32903. Rate Determination**

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

J. Effective for dates of service on or after February 20, 2009, the reimbursement rate for non-state intermediate care facilities for persons with developmental disabilities shall be reduced by 3.5 percent of the per diem rate on file as of February 19, 2009.

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

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

### **§32913. Leave of Absence Days**

A. The reimbursement to non-state ICF/DDs for hospital leave of absence days is 75 percent of the applicable per diem rate.

B. The reimbursement for leave of absence days is 100 percent of the applicable per diem rate.

1. A leave of absence is a temporary stay outside of the ICF/DD, for reasons other than for hospitalization, provided for in the recipient's written individual habilitation plan.

C. Effective for dates of service on or after February 20, 2009, the reimbursement to non-state ICF/DDs for leave of absence days is 75 percent of the applicable per diem rate on file as of February 19, 2009.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:2255 (September 2005), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

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

Alan Levine  
Secretary

0906#059

## **DECLARATION OF EMERGENCY**

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

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

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XIX.4329 and §4334-4337 in the Medical Assistance Program as authorized by R.S. 36:254, pursuant to Title XIX of the Social Security Act and as directed by Act 19 of the 2008 Regular Session of the Louisiana Legislature which states: "The secretary shall, subject to the review and approval of the Joint Legislative Committee on the Budget, implement reductions in the Medicaid program as necessary to control expenditures to the level appropriated in this Schedule. Notwithstanding any law to the contrary, the secretary is hereby directed to utilize various cost-containment measures to accomplish these reductions, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior

authorization, service limitations and other measures as allowed by federal law." This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:950 et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repromulgated all of the Rules governing reimbursement for laboratory and x-ray services in a codified format for inclusion in the *Louisiana Administrative Code (Louisiana Register, Volume 28, Number 5)*. As a result of a budgetary shortfall and to avoid a budget deficit, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated and Emergency Rule to reduce the reimbursement rates paid for laboratory and x-ray services, hereafter referred to as radiology services (*Louisiana Register, Volume 35, Number 3*). This Emergency Rule is being promulgated to amend the provisions of the February 26, 2009 Emergency Rule to clarify the reimbursement methodology for radiation therapy centers. This action is necessary to avoid a budget deficit in the medical assistance programs.

Effective June 20, 2009, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions of the February 26, 2009 Emergency Rule governing the reimbursement methodology for laboratory and radiology services.

## **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part XIX. Other Services**

#### **Subpart 3. Laboratory and Radiology**

#### **Chapter 43. Billing and Reimbursement**

#### **Subchapter B. Reimbursement**

#### **§4329. Laboratory Services (Physicians and Independent Laboratories)**

A. Providers should use the most appropriate Healthcare Common Procedure Coding System (HCPCS)/Current Procedural Terminology (CPT) code representing the service performed when submitting claims to Medicaid.

1. - 3. Repealed.

B. Guidelines indicated in the pertinent CPT manual are to be followed when billing for these services unless specifically directed otherwise by the Department.

C. Limitations on select services are indicated on the published fee schedules and/or in provider manuals.

D. Reimbursement for clinical laboratory procedures shall not exceed 100 percent of the current year's Medicare allowable. Reimbursement of clinical laboratory services shall be paid at the lower of billed charges or the fee on file, minus the amount which any third party coverage would pay.

E. Those services not subject to the Medicare fee schedule shall continue to be reimbursed to physicians and independent laboratories based on the published Medicaid fee schedule or billed charges, whichever is lower.

F. Effective for dates of service on or after February 26, 2009, the reimbursement rates for laboratory services shall be reduced by 3.5 percent of the fee amounts on file as of February 25, 2009.

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

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

**§4334. Radiology Services**

A. Providers should use the most appropriate Healthcare Common Procedure Coding System (HCPCS)/Current Procedural Terminology (CPT) code representing the service performed when submitting claims to Medicaid.

B. Guidelines indicated in the pertinent CPT manual are to be followed when billing for these services unless specifically directed otherwise by the Department.

C. Limitations on select services are indicated on the published fee schedules and/or in provider manuals.

D. Reimbursement of radiology services shall be the lower of billed charges or the fee on file, minus the amount which any third party coverage would pay.

E. Effective for dates of service on or after February 26, 2009, the reimbursement rates for radiology services shall be reduced by 3.5 percent of the fee amounts on file as of February 25, 2009.

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

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

**§4335. Portable Radiology Services**

A. Providers should use the most appropriate Healthcare Common Procedure Coding System (HCPCS)/Current Procedural Terminology (CPT) code representing the service performed when submitting claims to Medicaid.

B. Reimbursement of portable radiology services shall be the lower of billed charges or the fee on file, minus the amount which any third party coverage would pay.

C. Effective for dates of service on or after February 26, 2009, the reimbursement rates for portable radiology services shall be reduced by 3.5 percent of the fee amounts on file as of February 25, 2009.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 30:1026 (May 2004), amended LR 35:

**§4337. Radiation Therapy Centers**

A. Radiation therapy centers are reimbursed fee for service according to the appropriate procedure code.

B. Reimbursement for radiation therapy center services shall be the lower of billed charges or the fee on file, minus the amount which any third party coverage would pay.

C. Effective for dates of service on or after February 26, 2009, the reimbursement rates for radiology services provided by radiation therapy centers shall be reduced by 3.5 percent of the fee amounts on file as of February 25, 2009.

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

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

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

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

Alan Levine  
Secretary

0906#053

**DECLARATION OF EMERGENCY**

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

Medicaid Eligibility  
Youth Aging Out of Foster Care  
(LAC 50:III.2307)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:III.2307 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 Foster Care Independence Act of 1999, Public Law 106-109, established provisions which allow states to offer programs designed to better assist adolescents with the transition from foster care to self-sufficiency once they reach age 18. Section 477 of the Act, referred to as the John H. Chafee Foster Care Independence Program or "Chafee Option," established a new eligibility group to provide health care benefits to former foster care recipients between the ages of 18 and 21.

Act 352 of the 2008 Regular Session of the Louisiana Legislature authorized the Department of Health and Hospitals to adopt provisions pursuant to the Chafee Option which provide regular Medicaid coverage or an alternative benefits package to independent youth aging out of foster care. In compliance with Act 352, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule to adopt provisions to establish a new Medicaid eligibility group to provide Medicaid coverage to youth between the ages of 18 and 21 who are transitioning out of foster care (*Louisiana Register*, Volume 35, Number 2). This Emergency Rule is being promulgated to continue the provisions of the March 1, 2009 Emergency Rule.

This action is being taken to promote the health and well-being of individuals in foster care by maintaining their access to health care services after they have aged out of the foster care system.

Effective June 30, 2009, the Department of Health and Hospitals, Bureau of Health Services Financing adopts provisions to establish a new Medicaid eligibility group for youth who are aging out of foster care.

**Title 50**  
**PUBLIC HEALTH—MEDICAL ASSISTANCE**  
**Part III. Eligibility**  
**Subpart 3. Eligibility Groups and Factors**  
**Chapter 23. Eligibility Groups and Medicaid**  
**Programs**

**§2307. Youth Aging Out of Foster Care**

A. Pursuant to Section 477 of the Foster Care Independence Act of 1999 (Public Law 106-169) and Act 352 of the 2008 Regular Session of the Louisiana Legislature, the Department of Health and Hospitals hereby implements a Medicaid eligibility group, effective March 1, 2009, to provide health care coverage to youth who are transitioning out of foster care to self-sufficiency upon reaching age 18. This eligibility group will be called Youth Aging Out of Foster Care.

B. Eligibility Requirements. Youth who are aging out of foster care on or after March 1, 2009 and meet all of the following requirements may receive Medicaid health care coverage under this new eligibility group.

1. The youth must be from age 18 up to age 21.
2. The youth must have been in foster care and in state custody, either in Louisiana or another state, upon obtaining age 18.
3. The youth must live in Louisiana.

C. Income, resources and insurance status are not considered when determining eligibility.

D. Individuals determined eligible in this group shall receive coverage of medically necessary health care services provided under the Medicaid State Plan.

1. The assistance unit shall consist of the youth only.

E. Eligibility for the program will continue until the youth reaches age 21 unless the youth:

1. moves out of state;
2. requests closure of the case;
3. is incarcerated; or
4. dies.

F. Application Process. No application is required for this eligibility group. Closure of a foster care case due to the youth reaching age 18 establishes eligibility.

G. Certification Period. The certification period shall begin the month the youth reaches age 18 and will end on the last day of the month in which the youth reaches age 21.

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

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

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

Alan Levine  
Secretary

0906#063

**DECLARATION OF EMERGENCY**

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

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

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgated a Rule that amended the provisions governing reimbursement to nursing facilities for hospital leave of absence days (*Louisiana Register*, Volume 27, Number 1). Effective for dates of service on or after July 1, 2008, the reimbursement paid to nursing facilities was increased in accordance with the reimbursement methodology established in the August 20, 2002 Rule (*Louisiana Register*, Volume 28, Number 8). As a result of a budgetary shortfall and to avoid a budget deficit in the medical assistance programs, the bureau promulgated an Emergency Rule to reduce the reimbursement paid to nursing facilities for leave of absence days (*Louisiana Register*, Volume 35, Number 2). The bureau amended the provisions of the February 20, 2009 Emergency Rule to adjust the reimbursement for hospital leave of absence days (*Louisiana Register*, Volume 35, Number 3). The bureau now proposes to amend the March 1, 2009 Emergency Rule to further clarify the provisions governing the reimbursement to nursing facilities with occupancy rates equal to or greater than 90 percent.

This action is being taken to align the reimbursement methodology for hospital and home leave of absence days for nursing facilities with occupancy equal to or greater than 90 percent.

Effective June 20, 2009, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions of the March 1, 2009 Emergency Rule governing the reimbursement methodology for nursing facility leave of absence days.

**Title 50**  
**PUBLIC HEALTH—MEDICAL ASSISTANCE**  
**Part VII. Long Term Care Services**  
**Subpart 1. Nursing Facilities**

**Chapter 13. Reimbursement**  
**§1321. Leave of Absence Days**

A. For each Medicaid recipient, nursing facilities shall be reimbursed for up to seven hospital leave of absence days per occurrence and 15 home leave of absence days per calendar year.

B. The reimbursement for hospital leave of absence days is 75 percent of the applicable per diem rate.

C. Nursing facilities with occupancy rates less than 90 percent. Effective for dates of service on or after February 20, 2009, reimbursement for hospital and home leave of absence days will be reduced to 10 percent of the applicable per diem rate in addition to the nursing facility provider fee.

D. Nursing facilities with occupancy rates equal to or greater than 90 percent.

1. Effective for dates of service on or after February 20, 2009, the reimbursement paid for home leave of absence days will be reduced to 90 percent of the applicable per diem rate, which includes the nursing facility provider fee.

2. Effective for dates of service on or after March 1, 2009, the reimbursement for hospital leave of absence days for nursing facilities with occupancy rates equal to or greater than 90 percent shall be 90 percent of the applicable per diem rate, which includes the nursing facility provider fee.

E. Occupancy percentages will be determined from the average annual occupancy rate as reflected in the Louisiana Inventory of Nursing Home Bed Utilization Report published from the period six months prior to the beginning of the current rate quarter. Occupancy percentages will be updated quarterly when new rates are loaded and shall be in effect for the entire quarter.

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

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

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

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

Alan Levine  
Secretary

0906#054

## DECLARATION OF EMERGENCY

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

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

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

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

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

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

This action is being taken to avoid a budget deficit due to the escalating costs associated with LT-PCS. In addition, it is anticipated that this action will promote the health and well-being of recipients through the accurate identification and evaluation of the supports needed to safely maintain these individuals in their homes and communities.

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

**Title 50  
PUBLIC HEALTH—MEDICAL ASSISTANCE  
Part XV. Services for Special Populations  
Subpart 9. Personal Care Services  
Chapter 129. Long Term Care  
§12901. General Provisions**

A. ...

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

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

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

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

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

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

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

conditions:

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

i. - i.iv. Repealed.

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

- a. aphasia dehydration;
  - i. Repealed.
- b. any stasis ulcer;
  - i. a stasis ulcer is a breakdown of the skin caused

by fluid build-up in the skin from poor circulation;

- c. end-stage/terminal illness;
  - i. Repealed.

- d. chemotherapy;
- e. blood transfusion;
- f. skin problem;
- g. cerebral palsy diagnosis;
- h. urinary tract infection;
- i. hemiplegia diagnosis;

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

- j. dialysis treatment;
  - i. Repealed.

- k. diagnosis of pneumonia;
- l. one or more of the seven criteria in Special Care

(with low ADL need); or

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

n. - o. Repealed.

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

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

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

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

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

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

a. the allocation methodology was incorrectly applied and the correct application of the methodology would result in additional hours; or

b. he/she needs additional hours to avoid entering into a nursing facility.

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

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

HISTORICAL NOTE: Amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2831 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 32:2082 (November 2006), LR 34:2577 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:

#### **§12909. Standards for Participation**

A. - B.12.c. ...

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:912 (June 2003), amended LR 30:2832 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2579 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:

#### **§12915. Service Limitations**

A. Personal care services shall be limited to up to 42 hours per week. Authorization of service hours shall be considered on a case-by-case basis as substantiated by the recipient's plan of care and supporting documentation.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:913 (June 2003), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2581 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:

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

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

Alan Levine  
Secretary

0906#055

## DECLARATION OF EMERGENCY

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

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

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:IX.15111 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 19 of the 2008 Regular Session of the Louisiana Legislature which states: "The secretary shall, subject to the review and approval of the Joint Legislative Committee on the Budget, implement reductions in the Medicaid program as necessary to control expenditures to the level appropriated in this Schedule. Notwithstanding any law to the contrary, the secretary is hereby directed to utilize various cost-containment measures to accomplish these reductions, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations and other measures as allowed by federal law." This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgated a Rule amending the provisions governing the billing and reimbursement methodology for anesthesia services (*Louisiana Register*, Volume 30, Number 5). As a result of a budgetary shortfall, the bureau has determined that it is

necessary to amend the provisions governing the reimbursement methodology for anesthesia services to reduce the reimbursement rates paid to certified registered nurse anesthetists (CRNA's) for services rendered to Medicaid recipients (*Louisiana Register*, Volume 35, Number 3). This Emergency Rule is being promulgated to continue the provisions of the February 26, 2009 Emergency Rule. This action is necessary to avoid a budget deficit in the medical assistance programs.

Effective June 27, 2009, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for anesthesia services to reduce the reimbursement rates paid to certified registered nurse anesthetists and to further clarify these provisions.

## Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part IX. Professional Services Program

##### Subpart 15. Reimbursement

#### Chapter 151. Reimbursement Methodology

##### §15111. Anesthesia Services

A. The most appropriate procedure codes and modifiers shall be used when billing for surgical anesthesia procedures and/or other services performed under the professional licensure of the physician (anesthesiologist or other specialty) or certified registered nurse anesthetist (CRNA).

B. Formula-Based Reimbursement. Reimbursement is based on formulas related to 100 percent of the 2003 Medicare Region 99 payable.

##### C. Flat Fee Reimbursement

1. Reimbursement for maternity related anesthesia services is a flat fee except for general anesthesia related to a vaginal delivery which is reimbursed according to a formula.

2. Other anesthesia services that are performed under the professional licensure of the physician (anesthesiologist or other specialty) or CRNA are reimbursed a flat fee based on the appropriate procedure code.

D. Effective for dates of service on or after February 26, 2009, the reimbursement rates paid to CRNAs will be reduced by 3.5 percent of the reimbursement as of February 25, 2009.

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

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

Implementation of the provisions of this Rule is contingent upon the Joint Legislative Committee on the Budget and the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

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

Alan Levine  
Secretary

0906#061

## DECLARATION OF EMERGENCY

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

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

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:XVII.501 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 19 of the 2008 Regular Session of the Louisiana Legislature which states: "The secretary shall, subject to the review and approval of the Joint Legislative Committee on the Budget, implement reductions in the Medicaid program as necessary to control expenditures to the level appropriated in this schedule. Notwithstanding any law to the contrary, the secretary is hereby directed to utilize various cost-containment measures to accomplish these reductions, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations and other measures as allowed by federal law." This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

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

As a result of a budgetary shortfall, the bureau promulgated an Emergency Rule to amend the provisions governing the reimbursement methodology for prosthetic and orthotic devices to reduce the reimbursement rate (*Louisiana Register*, Volume 35, Number 3). This Emergency Rule is being promulgated to continue the provisions of the March 7, 2009 Emergency Rule. This action is necessary to avoid a budget deficit in the medical assistance programs.

Effective July 6, 2009, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for prosthetic and orthotic devices.

#### Title 50

#### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part XVII. Prosthetics and Orthotics

#### Subpart 1. General Provisions

#### Chapter 5. Reimbursement

#### §501. Reimbursement Methodology

A. - B. ...

C. Effective for dates of service on or after March 7, 2009, the reimbursement for prosthetic and orthotic devices shall be reduced by 3.5 percent of the fee amounts on file as of March 6, 2009.

1. The rate reduction shall not apply to items that do not appear on the fee schedule and are individually priced.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1597 (July 2005), amended LR 34:881 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

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

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

Alan Levine  
Secretary

0906#062

## DECLARATION OF EMERGENCY

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

#### Outpatient Hospital Services Non-Rural, Non-State Hospitals Reimbursement Rate Reduction (LAC 50:V.5313, 5513, 5713, 5913 and 6115)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 50:V.5313, 5513, 5713, 5913 and adopts §6115 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 19 of the 2008 Regular Session of the Louisiana Legislature which states: "The secretary shall, subject to the review and approval of the Joint Legislative Committee on the Budget, implement reductions in the Medicaid program as necessary to control expenditures to the level appropriated in this schedule. Notwithstanding any law to the contrary, the secretary is hereby directed to utilize various cost-containment measures to accomplish these reductions, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations and other measures as allowed by federal law." This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule which established the reimbursement methodology for outpatient hospital services (*Louisiana Register*, Volume 22, Number 1). In compliance with the directives of Act 17 of the 2006 Regular Session of the Louisiana Legislature, the bureau amended the provisions governing the reimbursement methodology for outpatient hospital services

to increase the reimbursement paid to private (non-state) acute care hospitals for cost-based outpatient services (*Louisiana Register*, Volume 33, Number 2). As a result of a budgetary shortfall, the bureau promulgated an Emergency Rule to reduce the reimbursement paid to non-rural, non-state hospitals for outpatient services (*Louisiana Register*, Volume 35, Number 2). This Emergency Rule is being promulgated to continue the provisions of the February 20, 2009 Emergency Rule.

This action is necessary to avoid a budget deficit in the medical assistance programs. Taking into consideration the 3.5 percent reduction in outpatient hospital rates in state fiscal year 2009, the department has carefully reviewed the proposed rates and is satisfied that they are consistent with efficiency, economy and quality of care and are sufficient to enlist enough providers so that private (non-state) outpatient hospital services under the State Plan are available at least to the extent that they are available to the general population in the state.

Effective June 21, 2009, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for certain outpatient hospital services to reduce the reimbursement rates.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part V. Hospitals**

#### **Subpart 5. Outpatient Hospitals**

#### **Chapter 53. Outpatient Surgery**

#### **Subchapter B. Reimbursement Methodology**

#### **§5313. Non-Rural, Non-State Hospitals**

A. Effective for dates of service on or after February 20, 2009, the reimbursement paid to non-rural, non-state hospitals for outpatient surgery shall be reduced by 3.5 percent of the fee schedule on file as of February 19, 2009.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

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

#### **Chapter 55. Clinic Services**

#### **Subchapter B. Reimbursement Methodology**

#### **§5513. Non-Rural, Non-State Hospitals**

A. Effective for dates of service on or after February 20, 2009, the reimbursement paid to non-rural, non-state hospitals for outpatient clinic services shall be reduced by 3.5 percent of the fee schedule on file as of February 19, 2009.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

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

#### **Chapter 57. Laboratory Services**

#### **Subchapter B. Reimbursement Methodology**

#### **§5713. Non-Rural, Non-State Hospitals**

A. Effective for dates of service on or after February 20, 2009, the reimbursement paid to non-rural, non-state hospitals for outpatient laboratory services shall be reduced by 3.5 percent of the fee schedule on file as of February 19, 2009.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

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

#### **Chapter 59. Rehabilitation Services**

#### **Subchapter B. Reimbursement Methodology**

#### **§5913. Non-Rural, Non-State Hospitals**

A. Effective for dates of service on or after February 20, 2009, the reimbursement paid to non-rural, non-state hospitals for outpatient rehabilitation services shall be reduced by 3.5 percent of the fee schedule on file as of February 19, 2009.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

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

#### **Chapter 61. Other Outpatient Hospital Services**

#### **Subchapter B. Reimbursement Methodology**

#### **§6115. Non-Rural, Non-State Hospitals**

A. Effective for dates of service on or after February 20, 2009, the reimbursement paid to non-rural, non-state hospitals for outpatient hospital services other than clinical diagnostic laboratory services, outpatient surgeries, rehabilitation services and outpatient hospital facility fees shall be reduced by 3.5 percent of the fee schedule on file for February 19, 2009.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

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

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

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

Alan Levine  
Secretary

0906#060

### **DECLARATION OF EMERGENCY**

#### **Department of Health and Hospitals Office of Public Health**

Prohibiting the Resale of Ice from Facilities Other Than Permitted Ice Plants (LAC 51:VI.1301 and 1339)

The Department of Health and Hospitals, Office of Public Health (DHH/OPH), pursuant to the emergency rulemaking authority granted by R.S. 40:4(A)(13), hereby adopts the following Emergency Rule for the protection of public health. This Emergency Rule is promulgated specifically in accordance with R.S. 49:953(B) of the Administrative Procedure Act (R.S. 49:950, et seq.).

The DHH/OPH finds it necessary to make changes to the *Louisiana Administrative Code* given the present potential public health risks involved in the wholesaling of ice from ice-vending units and other venues. These changes allow the state to prohibit the resale of ice from any facility that does not meet the definition (revised below) of an "ice plant." The following changes will give the state the ability to prohibit

such resales, which could affect the health of its citizens and will give the State Health Officer the ability to make critical decisions that could protect human health. Accordingly, the following Emergency Rule, effective May 7, 2009, shall remain in effect for a maximum of 120 days, or until the final Rule is promulgated, whichever occurs first.

#### **Title 51**

### **PUBLIC HEALTH—SANITARY CODE**

#### **Part VI. Manufacturing, Processing, Packing, and Holding of Food, Drugs, and Cosmetics**

#### **Chapter 13. Cold Storage and Ice Plants**

#### **§1301. Definitions**

##### **[formerly paragraph 6:167]**

A. Unless otherwise specifically provided herein, the following words and terms used in this Part of the sanitary code, and all other Parts which are adopted or may be adopted, are defined for the purposes thereof as follows.

*Cold Storage Plants or Cold Storage Rooms*—places artificially cooled by refrigerating machinery or ice, or other means in which articles of food are stored at a temperature of 45°F or lower; provided, however, that frozen food lockers for the convenience of individuals who rent such lockers for the storage of privately owned foods not intended for sale are not included.

*Cross Connection*—a physical connection through which a supply of potable water could be contaminated or polluted and/or a connection between a supervised potable water supply and an unsupervised supply of unknown potability.

*Ice Plant*—A business engaged in the practice of wholesale manufacture and distribution of packaged ice (or block ice) processed in its own facility and distributed under its own label to retail clients for resale. This does not include ice-vending units as defined herein.

*Ice-Vending Unit*—A self-service machine designed to manufacture and, typically upon the insertion of money, dispense ice in either bulk form or in bags directly to retail consumers; ice manufactured from these units is sold to an individual for his/her own consumption and shall not be resold for human consumption on a wholesale or commercial basis.

*Operations Panel*—The area on an ice-vending unit where a customer inserts money.

*Personnel*—any person who may in any manner come in contact with artificial ice during its manufacture, storage or distribution or with foods in cold storage.

*Proprietor*—any person, firm, corporation or governmental agency owning or operating an artificial ice or cold storage plant.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a) and R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1248 (June 2002), amended LR 35:

#### **§1339. Resale of Ice from Facilities Other Than Ice Plants Prohibited**

A. Ice distributed from any facility other than a permitted ice plant may not be resold for any purpose.

B. Ice-vending units must bear a placard adjacent to the operations panel (no greater than 6 inches of vertical or horizontal separation) that bears the following statement in clear, legible type of size not smaller than 72 points in all

uppercase black letters on a white background or other sharply contrasting colors: FOR RETAIL SALE ONLY. Such placards must be made of durable materials and must be securely fastened to the unit. In the event that the placard is damaged, removed, or otherwise rendered illegible, the owner must replace the placard as soon as he or she becomes aware of this condition.

C. In addition to all other labeling requirements, bagged ice manufactured from ice-vending units must bear the following statement on the principal display panel of the bag in a font size no smaller than 48 points in all uppercase letters: NOT FOR RESALE.

D. Currently-permitted ice-vending unit operators shall have 90 days from the effective date of this Rule to comply with the requirements of Subsections B and C herein.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a) and R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 35:

Alvin Levine  
Secretary

0906#003

### **DECLARATION OF EMERGENCY**

#### **Department of Public Safety and Corrections Corrections Services**

Americans with Disabilities Act (LAC 22:I.308)

In accordance with the provisions of R.S. 49:953, the Department of Public Safety and Corrections, Corrections Services, hereby determines that adoption of an Emergency Rule for implementation of the amendment of two existing Department Regulation Nos., A-02-017, Equal Employment Opportunity (Includes Americans Disabilities Act), B-08-010, Americans with Disabilities Act, and the creation of a new Department Regulation, B-08-018 entitled Effective Communication with the Hearing Impaired is necessary and that for the following reasons failure to adopt the Rule on an emergency basis will result in a breach of the Resolution Agreement with the United States Department of Justice, Office of Civil Rights.

The U.S. Department of Justice, Office of Civil Rights received a complaint from a hearing impaired offender who claimed that he was not able to participate in the program and services offered by the Department of Public Safety and Corrections, Corrections Services, due to his disability. Without admitting any liability, both parties, after intensive research, determined the best practices of affording services to deaf and hearing impaired offenders, employees and visitors by the department. These best practices were incorporated into a document known as the Resolution Agreement and confected September 2008. The proposed modifications to the existing regulations and the creation of the new regulation contain the agreed upon best practices and have been approved by the Department of Justice, Office of Civil Rights.

The department is required, pursuant to the Resolution Agreement, to take certain affirmative acts such as promulgating the instant regulations, and to submit reports to the Department of Justice in a defined manner. Failure to

promulgate the regulations and take the steps required once the promulgation occurs could result in a breach of the Resolution Agreement.

For the foregoing reasons, the Department of Public Safety and Corrections, Corrections Services, has determined that the adoption of an Emergency Rule for implementation of Department Regulation Nos. A-02-017, Equal Employment Opportunity (Includes Americans Disabilities Act), B-08-010, Americans with Disabilities Act and B-08-018 entitled Effective Communication with the Hearing Impaired is necessary and hereby provides notice of its declaration of emergency effective on June 10, 2009, in accordance with R.S. 49:953. This Emergency Rule shall be in effect for 120 days or until adoption of the final Rule, whichever occurs first.

## **Title 22**

### **CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT**

#### **Part I. Corrections**

#### **Chapter 3. Adult Services**

#### **§308. Americans with Disabilities Act**

A. Purpose. To establish the secretary's commitment to compliance with the Americans with Disabilities Act and related legislation as it pertains to services for offenders and to establish formal procedures regarding reasonable accommodations for those offenders.

B. Applicability. Deputy Secretary, Undersecretary, Chief of Operations, Assistant Secretary, Regional Wardens, Wardens, Director of Probation and Parole, Director of Prison Enterprises and offenders who have a disability. Each unit head is responsible for ensuring that appropriate unit written policy and procedures are in place to comply with the provisions of this regulation.

C. Policy. It is the secretary's policy to provide offenders with access to housing, programs and services regardless of their disability to the extent possible within the context of the department's fundamental mission to preserve the safety of the public, staff and offenders and consistent with other classification variables that may affect custody, housing and program assignments. Equal access to programs, services and activities will be provided to all offenders based upon their classification.

a. Access to housing, programs and services includes the initiation and provision of reasonable accommodations including, but not limited to facility modifications, assistive equipment and devices and interpreter services. However, such accommodation should not constitute a danger to the offender or others and should not create undue hardship on the department or its employees.

b. Staff who are aware of or have reason to believe that an offender has a disability for which he may need accommodation are required to advise the unit ADA Coordinator, who will evaluate the circumstances to determine if auxiliary aids and services and reasonable accommodations are required.

#### **D. Definitions**

*Americans with Disabilities Act (ADA)*—a comprehensive federal law which requires the state to provide equal access for people with disabilities to programs, services and activities of the department.

*Auxiliary Aids and Services*—external aids used to assist people who are hearing-impaired and may include qualified sign language or oral interpreters, written materials, telephone handset amplifiers, assistive listening devices, telephones compatible with hearing aids, closed caption decoders, open and closed captioning, telecommunication devices for deaf persons (TDD/TTY), videotext displays or other effective methods of making aurally delivered materials available to individuals with hearing impairments.

*Disability*—a physical or mental impairment that substantially limits one or more of the major life activities of an individual, including a record of such impairment or being regarded as having such impairment.

*Effective Communication*—communication with persons with disabilities that is as effective as communication with others. Effective communication is achieved by furnishing appropriate auxiliary aids and services where necessary to afford qualified individuals with disabilities an equal opportunity to participate in or benefit from the services, programs or activities of the department.

*Major Life Activity*—walking, seeing, hearing, breathing, caring for one's self, sitting, standing, lifting, learning, thinking, working and reproduction. This list is illustrative only. The impairment to a major live activity must be long term.

*Offender*—anyone committed to the physical custody of the Department of Public Safety and Corrections or under the supervision of the Division of Probation and Parole.

*Qualified Interpreter*—an interpreter who is able to interpret effectively, accurately and impartially both receptively and expressively, using any necessary specialized vocabulary.

a. An employee who signs "pretty well" or has only a rudimentary familiarity with sign language or finger spelling is not a qualified sign language interpreter pursuant to this regulation. Likewise, someone who is fluent in sign language but who does not possess the ability to process spoken communication into the proper signs or to observe someone else signing and change their signed or finger spelled communication into spoken words is not a qualified sign language interpreter. A departmental employee should not be allowed to interpret if his presence poses a conflict of interest or raises confidentiality and privacy concerns. On occasion, an offender may possess the skill level necessary to provide interpreting services; however, the impartially concerns remain, and in many-if not most-situations, offender interpreters should not be used due to confidentiality, privacy and security reasons.

*Reasonable Accommodation*—a modification or adjustment to a job, service, program or activity, etc., that enables a qualified individual with a disability to have an equal opportunity for participation.

*Requestor*—a person who requests an accommodation for a disability.

#### **E. Procedures**

##### **1. Initiation of Requests for Accommodation**

a. A qualified individual with a known disability of a long term nature should be accommodated where reasonably possible. A request for accommodation may be filed orally or in writing.

b. An offender with a disability may be able to function in the unit without any accommodation other than

that which may already have been provided. If not, the offender may request accommodation.

c. The ADA does not require that a request for accommodation be provided in any particular manner; therefore, the department is charged with having knowledge, or deemed with having knowledge, of the request regardless of the form of the request.

d. The department has in place a formal grievance mechanism through which an offender may seek formal review of a complaint relative to any request for reasonable accommodation.

e. An offender may submit a written request for accommodation through the ARP process or staff shall direct or assist the offender to write his request if the request is made verbally.

f. The ADA block on the ARP form shall be checked by the ARP Screening Officer and directed to the unit ADA Coordinator.

## 2. Accommodation Review Process

a. Upon receipt of a request for accommodation, the unit ADA Coordinator shall seek to determine the following:

i. if the medical condition is of a temporary or long-term nature;

ii. if additional medical information is needed. At this point of the process, the unit ADA Coordinator may request that the unit medical director determine the following:

(a) what specific symptoms and functional limitations are creating barriers;

(b) if the limitations are predictable, subject to change, stable or progressive;

(c) how the limitations impact the offender's ability to fully participate in the activities and services provided;

iii. whether the condition complained of impairs a major life activity.

b. Once the initial information is gathered, a dialogue between the requestor and the unit ADA Coordinator regarding resolution of the problem shall begin.

NOTE: It may take only a change in duty status to resolve the problem.

c. An exception to the need to make an accommodation includes, but is not limited to, the following:

i. not a qualified disability;

ii. threat to one's self or others. Considerations include:

(a) duration of the risk involved;

(b) nature and severity of the potential harm;

(c) likelihood the potential harm will occur;

(d) imminence of the potential harm;

(e) availability of any reasonable accommodation that might reduce or eliminate the risk;

iii. undue hardship. The decision to use this exception can only be made by the Headquarters ADA Coordinator after consultation with appropriate personnel. A written description of the problem with the requested

accommodation and the difficulty anticipated by the unit should be sent to the Headquarters ADA Coordinator.

Considerations include the following:

(a) scope of the accommodation;

(b) cost of the accommodation;

(c) budget of the department;

(d) longevity of the accommodation;

iv. alteration would fundamentally change the nature of the service, program or activity.

## 3. Decision

a. Consideration should be given on a case-by-case basis.

b. Once the decision to accommodate or not is made, the requestor must be informed in writing of the decision of whether or not an accommodation will be made, the reason for the decision and the accommodation to be made, if applicable, including any specific details concerning the accommodation. This decision shall be conveyed through the ARP First Step Process. The requestor shall also be informed of the right to appeal the decision through the ARP process.

i. For each decision, a copy of the packet of information containing the decision, all information used to reach a decision and all attempts to resolve the request shall be forwarded to the Headquarters ADA Coordinator. The unit ADA Coordinator shall ensure that all requests for accommodation are properly and timely entered into the department's ADA database.

## 4. Appeal

a. The offender has the right to appeal to the second step in accordance with the ARP process.

b. The ARP response shall be issued in conjunction with the Headquarters ADA Coordinator and shall contain the relevant issues raised in Subparagraphs E.2.a, b, and c.

## 5. Recordkeeping

a. The Headquarters ADA Coordinator shall maintain records of all requests for accommodation made throughout the department.

b. To ensure uniform and consistent compliance with the provisions of this regulation, the Headquarters ADA Coordinator shall maintain and track statistics concerning all requests for accommodation from offenders and the nature and outcome of the accommodations requested.

c. If a pattern becomes apparent following review of the statistics, the Headquarters ADA Coordinator shall seek to remedy and/or correct any problems noted and report same to the secretary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 35:

James M. Le Blanc  
Secretary

0906#043

## DECLARATION OF EMERGENCY

### Department of Public Safety and Corrections Corrections Services

#### Effective Communication with the Hearing Impaired (LAC 22:I.312)

In accordance with the provisions of R.S. 49:953, the Department of Public Safety and Corrections, Corrections Services, hereby determines that adoption of an Emergency Rule for implementation of the amendment of two existing Department Regulation Nos., A-02-017, Equal Employment Opportunity (Includes Americans Disabilities Act), B-08-010, Americans with Disabilities Act, and the creation of a new Department Regulation, B-08-018 entitled Effective Communication with the Hearing Impaired is necessary and that for the following reasons failure to adopt the Rule on an emergency basis will result in a breach of the Resolution Agreement with the United States Department of Justice, Office of Civil Rights.

The U.S. Department of Justice, Office of Civil Rights received a complaint from a hearing impaired offender who claimed that he was not able to participate in the program and services offered by the Department of Public Safety and Corrections, Corrections Services, due to his disability. Without admitting any liability, both parties, after intensive research, determined the best practices of affording services to deaf and hearing impaired offenders, employees and visitors by the department. These best practices were incorporated into a document known as the Resolution Agreement and confected September, 2008. The proposed modifications to the existing regulations and the creation of the new regulation contain the agreed upon best practices and have been approved by the Department of Justice, Office of Civil Rights.

The department is required, pursuant to the Resolution Agreement, to take certain affirmative acts such as promulgating the instant regulations, and to submit reports to the Department of Justice in a defined manner. Failure to promulgate the regulations and take the steps required once the promulgation occurs could result in a breach of the Resolution Agreement.

For the foregoing reasons, the Department of Public Safety and Corrections, Corrections Services, has determined that the adoption of an Emergency Rule for implementation of Department Regulation Nos. A-02-017, Equal Employment Opportunity (Includes Americans Disabilities Act), B-08-010, Americans with Disabilities Act and B-08-018 entitled Effective Communication with the Hearing Impaired is necessary and hereby provides notice of its declaration of emergency effective on June 10, 2009, in accordance with R.S. 49:953. This Emergency Rule shall be in effect for 120 days or until adoption of the final Rule, whichever occurs first.

## Title 22

### CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

#### Part I. Corrections

#### Chapter 3. Adult Services

#### §312. Effective Communication with the Hearing Impaired.

A. Purpose. To establish procedures to provide auxiliary aids and services whenever necessary to ensure effective communication with qualified individuals with disabilities.

B. Applicability. Deputy Secretary, Undersecretary, Chief of Operations, Assistant Secretary, Regional Wardens, Wardens, Director of Probation and Parole, Director of Prison Enterprises, offenders, employees and visitors who are hearing-impaired. Each unit head is responsible for ensuring that appropriate unit written policy and procedures are in place to comply with the provisions of this regulation.

C. Policy. It is the secretary's policy to ensure that communication with offenders, employees and visitors with disabilities is to the same extent as communicating with others. The department shall furnish appropriate auxiliary aids and services where necessary to afford an individual with a disability an equal opportunity to participate in, and enjoy the benefits of, a service, program or activity conducted by the department where the auxiliary aids or services does not constitute an undue administrative and financial burden or fundamentally alter the service, program, or activity. Any male offender whose hearing cannot be restored to a "within normal limits" medical level with an auxiliary aid will be housed at either the Louisiana State Penitentiary (LSP) or Rayburn Correctional Center (RCC). Any female offender whose hearing cannot be restored to a "within normal limits" medical level with an auxiliary aid will be housed at the Louisiana Correctional Institute for Women (LCIW.)

#### D. Definitions

*Americans with Disabilities Act (ADA)*—a comprehensive federal law which requires the State to provide equal access for people with disabilities to services, programs, and activities of the department.

*Auxiliary Aids and Services (AAS)*—external aids used to assist people who are hearing-impaired and may include qualified sign language or oral interpreters, written materials, telephone handset amplifiers, assistive listening devices, telephones compatible with hearing aids, closed caption decoders, open and closed captioning, telecommunication devices for deaf persons (TDD/TTY), videotext displays or other effective methods of making aurally delivered materials available to individuals with hearing impairments.

*Departmental Personnel*—for the purpose of this regulation, this shall include, but not be limited to, nurses, physicians, social workers, therapists, admitting personnel, security staff, probation and parole officers and any other administrative staff who have or are likely to have direct contact with offenders and/or visitors.

*Disability*—a physical or mental impairment that substantially limits one or more of the major life activities of an individual, including a record of such impairment or being regarded as having such impairment.

*Effective Communication*—communication with persons with disabilities that is as effective as communication with others. Effective communication is achieved by furnishing appropriate auxiliary aids and services where necessary to afford qualified individuals with disabilities an equal opportunity to participate in or benefit from the services, programs and activities of the department.

*Major Life Activity*—walking, seeing, hearing, breathing, caring for one's self, sitting, standing, lifting, learning, thinking, working and reproduction. This list is illustrative only. The impairment to a major life activity must be long term.

*Offender*—anyone committed to the physical custody of the Department of Public Safety and Corrections or under the supervision of the Division of Probation and Parole.

*Qualified Interpreter*—an interpreter who is able to interpret effectively, accurately and impartially both receptively and expressively, using any necessary specialized vocabulary.

NOTE: An employee who signs "pretty well" or has only a rudimentary familiarity with sign language or finger spelling is not a qualified sign language interpreter pursuant to this regulation. Likewise, someone who is fluent in sign language but who does not possess the ability to process spoken communication into the proper signs or to observe someone else signing and change their signed or finger spelled communication into spoken words is not a qualified sign language interpreter. A departmental employee should not be allowed to interpret if his presence poses a conflict of interest or raises confidentiality and privacy concerns. On occasion, an offender may possess the skill level necessary to provide interpreting services; however, the impartiality concerns remain, and in many-if not most-situations, offender interpreters should not be used due to confidentiality, privacy and security reasons.

*Reasonable Accommodation*—a modification or adjustment to a job, service, program or activity, etc., that enables a qualified individual with a disability to have an equal opportunity for participation.

*Requestor*—a person who requests an accommodation for a disability.

*TTY/TDD*—a device that is used with a telephone or computer that has telephone text capability to communicate (by typing and reading communication) with persons who are deaf or hearing-impaired.

*Visitor*—for the purpose of this regulation, includes any non-departmental employee who is authorized to be on institutional grounds. i.e., volunteers, contractors, official guests, etc.

#### E. Procedures

##### 1. Establishment of Auxiliary Aids and Services (AAS) Program

a. The department shall design and institute a program to provide auxiliary aids and services, schedule, announce and promote all training required, and draft, provide and maintain all reports as required by this regulation.

##### 2. Designation of an Official or Office Responsible for AAS

a. Each unit ADA Coordinator will be responsible for the AAS program and shall maintain all necessary

information about access to and the operation of the program.

b. LSP, RCC and LCIW unit ADA Coordinators shall maintain a combination voice, TDD/TTY telephone line or dedicated TDD/TTY telephone line and shall publicize the purpose and telephone number broadly within the unit and to the public.

c. Each unit ADA Coordinator shall provide appropriate assistance regarding immediate access to, and proper use of, the appropriate auxiliary aids and services available. It is the responsibility of the unit ADA Coordinators to know where the appropriate auxiliary aids are stored, how to obtain services and how to operate them and shall facilitate maintenance, repair, replacement and distribution.

d. Each unit ADA Coordinator shall maintain a recording system for inquiries regarding the provision of auxiliary aids and services and the response.

##### 3. Provision of Appropriate Auxiliary Aids and Services

a. The department shall provide to offenders, employees and visitors who are deaf or hearing-impaired an appropriate auxiliary aid or service that may be necessary for effective communication as soon as practicable after determining that the aid or service is necessary.

b. The determination of which appropriate auxiliary aids and services are necessary and the timing, duration and frequency with which they will be provided shall be made by unit personnel, who are otherwise primarily responsible for coordinating and/or providing offender services, in consultation with the person with a disability. When an auxiliary aid or service is required to ensure effective communication, the unit shall provide an opportunity for an individual with a disability to request the auxiliary aid or service of the requestor's choice and shall give consideration to the choice expressed, but shall have the final decision regarding the accommodation to be provided.

c. The initial offender communication assessment shall be made at the time of the intake interview at a reception and diagnostic center or other appropriate classification center within 48 hours of arrival. Properly trained staff shall perform and document a communication assessment to determine the offender's level of effective communication. This assessment shall be conducted by an outside provider or departmental staff, barring any unusual or emergency condition within 10 weeks from the initial assessment. The written assessment shall be made a part of the offender's master prison record.

i. During the initial communication assessment, each offender shall be given a Request for Accommodation Form. This form shall also be made available to the current offender population. Offenders are free to reject or to fail to request auxiliary aids and services, but failure to use the designated form does not relieve the reception center/institution of its duty to assess the offender, nor to inform the offender of the availability of appropriate auxiliary aids and services. Refusal or failure by an offender to complete or return the Request for Accommodation shall not constitute a violation of the ADA or of the Resolution Agreement by the department.

ii. If the initial assessment reveals that an offender's hearing is below normal limits as defined by the

Occupational Safety and Health Administration, a male offender shall be transferred to LSP for continuation and completion of the classification process.

d. Each unit shall conduct a minimum of a yearly assessment of each offender with hearing or speech disability regarding the provision of appropriate auxiliary aids and services. If an intervening problem or adjustment is required, the offender shall request a medical call-out. Each unit shall maintain appropriate documentation that reflects the ongoing assessments. The information shall be filed in the offender's medical record.

4. Nothing in this regulation shall require that an electronic device or piece of equipment used as an appropriate auxiliary aid be used when or where its use may be inconsistent with other departmental regulations or unit policies or when use may pose security concerns. (For example, closed-captioned televisions are provided consistently for offenders with hearing disabilities with the same duration and frequency as televisions are provided to the other offenders classified in the same status. No offender will be provided a television if his status would not otherwise permit access.)

5. The department shall maintain an effective complaint resolution mechanism regarding the provision of auxiliary aids and services. Records shall be kept of all complaints filed and actions taken in response. All complaints shall be handled through each unit ADA Coordinator and the grievance systems currently in effect. The warden designated to oversee the operation of the ADA program at each institution or division shall conduct a meaningful review of this regulation on a semi-annual basis.

6. If an offender who is deaf or hearing-impaired does not request appropriate auxiliary aids or services, but departmental and/or unit personnel have reason to believe that the offender would benefit from appropriate auxiliary aids or services, the offender may be asked if the use of auxiliary aids would be beneficial and initiate the testing procedure without violating ADA.

#### F. Qualified Interpreters

1. The department shall provide qualified sign language or oral interpreters when necessary for effective communication with, or effective participation in, departmental programs and activities by employees, offenders and visitors who are deaf or hearing-impaired. In addition, the department shall offer qualified sign language interpreters to offenders who are deaf or hearing-impaired and whose primary means of communication is sign language and qualified oral interpreters to offenders who rely primarily on lip reading, as necessary, for effective communication.

a. The following are examples of circumstances when it may be necessary to provide interpreters:

- i. initial intake and classification processing;
- ii. regularly scheduled health care appointments and programs, such as medical, dental, visual, mental health and drug and alcohol recovery services;
- iii. emergency health care where having an interpreter would not present an undue burden (e.g., interpreter can arrive at the scene quickly);
- iv. treatment and other formal programming;
- v. educational classes and activities;
- vi. parole board hearings;

- vii. disciplinary board hearings;
- viii. criminal investigations (to the extent controlled by the department);
- ix. classification review interviews;
- x. grievance interviews;
- xi. religious services; and
- xii. formal internal investigations.

2. The department shall establish a contract with individual sign language interpreters or with interpretive agencies for hearing impaired offenders, employees or visitors who require this service, or shall provide other effective means to ensure that qualified interpreters or oral interpreters are provided within three hours of an unscheduled request and timely for scheduled requests. Additionally, as a back-up measure, the Headquarters ADA Coordinator shall maintain a list of all qualified sign language and oral interpreters (and their contact information) residing or working within a 50-mile radius of any unit housing deaf or hearing-impaired offenders. The Headquarters ADA Coordinator shall provide this information to the unit ADA Coordinators at LSP, RCC and LCIW.

(NOTE: The department shall ensure by contract or other arrangements that all services, programs or activities provided or operated by contractors are in compliance with ADA. Contracts with those entities that fail or refuse to comply with ADA shall be subjected to formal termination proceedings.)

3. Between the time an interpreter is requested and when an interpreter arrives, unit personnel shall continue to try to communicate with the person who is hearing-impaired to the same extent as they would communicate with a person without a hearing impairment, using all available methods of communication. However, in an emergency, seeking the services of an interpreter shall not mean that medical treatment will be delayed until the interpreter arrives. In addition, upon arrival of the interpreter, unit personnel shall review and confirm with the offender, employee or visitor all information received prior to the interpreter's arrival.

4. Offenders requesting auxiliary aids and/or services, after the initial assessment and which would require a medical evaluation, shall be charged the standard medical co-pay.

EXCEPTION: The offender may be assessed the total costs of replacement of an auxiliary aid if it is determined that replacement is a direct result of the offender's negligence/damage to property.

#### G. Hearing Aids and Batteries

1. Each unit shall purchase appropriate types of hearing aid batteries and keep them in stock in the medical supply room during the length of time an offender who wears a hearing aid is housed at that unit. Replacement hearing aid batteries shall be provided to offenders who request them on the first business day following receipt of the request. If the request is made on a weekend or holiday or a night after regular business hours, the replacement battery will be provided on the first standard business day following the request.

2. Each unit shall send offender hearing aids to a hearing aid repair company as soon as possible, but no later than 24 hours (excluding weekends and holidays) following a request for repair of the offender's hearing aid. The unit shall inform the offender in writing, as soon as possible, when his hearing aid was sent for repair and when it is

expected to be returned by the repair company. The unit shall maintain written documentation of all hearing aid repairs, including detailed information regarding the vendor used, the date of the repair and the specific repairs performed. This information shall be submitted by each unit to the medical department at the Louisiana State Penitentiary quarterly for statistical compilation purposes.

#### H. Telephones

1. The department shall provide telecommunication devices for the deaf (TDDs/TTYs) for offenders who are deaf or hearing-impaired in a manner that ensures effective access to telephone services. In addition, the following is required so that those offenders who do hear will have access to TDDs/TTYs to communicate with family members or friends who are deaf or hearing-impaired.

a. Each unit shall make at least one TDD/TTY device available in each of the visiting areas where non-contact visits are conducted and the communication exchanged is accomplished over a telephone device. The unit can either permanently install the required TDD/TTY or make available a sufficient number of portable TDDs/TTYs for these visits.

b. Each unit shall provide a TDD/TTY to all deaf or hearing-impaired offenders residing in housing areas to the extent that pay telephones are available to other offenders. In those situations where the unit provides portable TDDs/TTYs, the housing officers shall provide them upon the offender's request, absent emergency circumstances such as lockdown.

c. The department shall take the necessary steps to provide offenders, with toll-free access to "800" numbers for telephone relay services and TDD/TTY operators. These numbers will be posted near all offender telephones, with notice that they are toll-free numbers. The telephone calls to the TDD/TTY operator will be provided free of charge, but any charges incurred to the receiving party will be handled as a standard offender telephone call. Thus, the offender or the receiving party shall be responsible for any long distance charges accrued.

d. Due to the fact that telephone calls placed via a TDD/TTY take longer than telephone calls placed using standard voice telephone equipment, the unit shall allow offenders needing TDD/TTY assistance to have 30 minutes per telephone call, barring any unusual circumstances.

2. Each unit shall ensure that at least one and no less than 25 percent of all offender telephones are equipped with volume control mechanisms and appropriate signs are displayed indicating the phone is volume controlled.

3. Each unit shall ensure that no less than 25 percent of all of its offender telephones are hearing aid compatible in the general population.

4. Each unit shall maintain records of all offenders who have been medically evaluated for any type of hearing impairment, the results of such assessment, date of any reassessment, any transfer or discharge of offenders assessed with a hearing impairment, requests for accommodations including the date requested and the determination and the provision of auxiliary aids or services and the date(s) provided. This information shall be submitted by each unit to the medical department of the Louisiana State Penitentiary quarterly for statistical compilation purposes.

#### I. Visual and Tactile Alarms

1. Where there are audible emergency alarms in visiting areas, each unit shall add visual alarms when an individual who is deaf or hearing-impaired is anticipated to spend significant periods of time in these areas.

2. Each unit shall place visual emergency alarms in rooms where offenders who are deaf may reside alone or work alone to ensure that they will always be alerted when an emergency alarm is activated. To be effective, such devices must be located and oriented so that they will spread signals and reflections throughout a space or raise the overall light level sharply.

3. Where each unit has audible alarms in housing areas, the unit shall add visual signal devices, when necessary, to alert offenders who are deaf or hearing-impaired to announcements (e.g., roll call).

#### J. Televisions

1. Each unit shall provide and maintain closed-captioned television decoders (or built-in decoder televisions) in television rooms to enable offenders who are deaf or hearing-impaired to enjoy the same opportunity for television viewing as that afforded to other offenders.

#### K. Training

1. Annual training regarding this regulation shall be provided by the department to all employees through the regularly scheduled ADA training program.

2. The training program shall be sufficient in duration and content to instruct a reasonable number of personnel in access to the AAS Program, use of the program, and sensitivity to the needs of the deaf and hearing-impaired offender population. Such training shall include:

a. topics relevant to the health care needs of deaf and hearing-impaired offenders, such as the various degrees of hearing impairment;

b. language and cultural diversity in the deaf community;

c. dispelling myths and misconceptions about persons who are deaf or hearing-impaired;

d. identification of communication requirements of persons who are deaf or hearing-impaired;

e. the unique needs and problems encountered by late-deafened individuals;

f. psychological implications of hearing loss and its relationship to interaction with hearing health care professionals;

g. types of auxiliary aids and services as required pursuant to this regulation;

h. the proper use and role of qualified sign language interpreters;

i. procedures and methods for accessing the AAS Program for providing interpreters;

j. making and receiving calls through TDDs/TTYs and the Louisiana Relay or other relay service providers;

k. third party resources which can provide additional information about people who are deaf or hearing-impaired; and

l. the existence of the department's complaint resolution process.

#### L. Recordkeeping

1. The Headquarters ADA Coordinator shall maintain records of all requests for accommodation made throughout the department.

2. The Headquarters ADA Coordinator shall maintain and track statistics concerning all requests for accommodation from offenders, employees and visitors and the nature and outcome of the accommodations requested.

3. If a pattern becomes apparent following review of the statistics, the Headquarters ADA Coordinator shall seek to remedy and/or correct any problems noted and report same to the secretary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 35:

James M. Le Blanc  
Secretary

0906#045

## DECLARATION OF EMERGENCY

### Department of Public Safety and Corrections Corrections Services

#### Equal Employment Opportunity (LAC 22:I.201)

In accordance with the provisions of R.S. 49:953, the Department of Public Safety and Corrections, Corrections Services, hereby determines that adoption of an Emergency Rule for implementation of the amendment of two existing Department Regulation Nos., A-02-017, Equal Employment Opportunity (Includes Americans Disabilities Act), B-08-010, Americans with Disabilities Act, and the creation of a new Department Regulation, B-08-018 entitled Effective Communication with the Hearing Impaired is necessary and that for the following reasons failure to adopt the Rule on an emergency basis will result in a breach of the Resolution Agreement with the United States Department of Justice, Office of Civil Rights.

The U.S. Department of Justice, Office of Civil Rights received a complaint from a hearing impaired offender who claimed that he was not able to participate in the program and services offered by the Department of Public Safety and Corrections, Corrections Services, due to his disability. Without admitting any liability, both parties, after intensive research, determined the best practices of affording services to deaf and hearing impaired offenders, employees and visitors by the department. These best practices were incorporated into a document known as the Resolution Agreement and confected September 2008. The proposed modifications to the existing regulations and the creation of the new regulation contain the agreed upon best practices and have been approved by the Department of Justice, Office of Civil Rights.

The department is required, pursuant to the Resolution Agreement, to take certain affirmative acts such as promulgating the instant regulations, and to submit reports to the Department of Justice in a defined manner. Failure to promulgate the regulations and take the steps required once the promulgation occurs could result in a breach of the Resolution Agreement.

For the foregoing reasons, the Department of Public Safety and Corrections, Corrections Services, has

determined that the adoption of an Emergency Rule for implementation of Department Regulation Nos. A-02-017, Equal Employment Opportunity (Includes Americans Disabilities Act), B-08-010, Americans with Disabilities Act and B-08-018 entitled Effective Communication with the Hearing Impaired is necessary and hereby provides notice of its declaration of emergency effective on June 10, 2009, in accordance with R.S. 49:953. This Emergency Rule shall be in effect for 120 days or until adoption of the final Rule, whichever occurs first.

## Title 22

### CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

#### Part I. Corrections

#### Chapter 2. Personnel

#### §201. Equal Employment Opportunity (Includes Americans with Disabilities Act).

A. Purpose. To establish the secretary's commitment to equal employment opportunities and to establish formal procedures regarding reasonable accommodation for all employees, applicants, candidates for employment (including qualified ex-offenders) and visitors.

B. Applicability. Deputy Secretary, Undersecretary, Chief of Operations, Assistant Secretary, Regional Wardens, Wardens, Director of Probation and Parole, Director of Prison Enterprises, employees, applicants, candidates for employment (including ex-offenders) and visitors. Each unit head is responsible for ensuring that appropriate unit written policy and procedures are in place to comply with the provisions of this regulation.

C. Policy. It is the secretary's policy to assure equal opportunities to all employees, applicants, candidates for employment (including ex-offenders) and visitors without regard to race, religion, color, national origin, sex, disability or age.

##### 1. Exceptions:

a. where age, sex or physical requirements constitute a bona fide occupational qualification necessary for proper and efficient operations;

b. where the implications of nepotism restrict such employment or employment opportunity; and

c. preferential hiring will be given to persons who actively served in the Iraqi/Afghanistan conflicts in accordance with Civil Service Rules.

2. Equal opportunities will be provided for employees in areas of compensation, benefits, promotion, recruitment, training and all other conditions of employment. Notices of equal employment opportunities will be posted in prominent accessible places at each employment location.

3. Equal access to programs, services and activities will be provided to all visitors. Advance notice of a requested accommodation shall be made during normal business hours to ensure availability at the time of the visit.

4. If any employee is made aware of or has reason to believe that a visitor to the unit is deaf or hard of hearing, the employee is required to advise the person that appropriate auxiliary aids and services will be provided. The employee should then direct the visitor to the unit ADA coordinator or designee. Likewise, such information must be forthcoming in response to any request for auxiliary aid or services.

#### D. Definitions

*Age Discrimination in Employment Act (ADEA)*—a federal law to protect individuals 40 years of age and over from arbitrary discrimination in employment practices, unless age is a bona fide occupational qualification. The state of Louisiana has passed similar legislation and the term ADEA will refer to both federal and state prohibitions against age discrimination in this regulation.

*Americans with Disabilities Act (ADA)*—a comprehensive federal law which requires the state to provide equal access for people with disabilities to programs, services and activities of the department, as well as to employment opportunities.

*Applicant*—a person who has applied for a job and whose qualification for such is unknown.

*Auxiliary Aids and Services*—external aids used to assist people who are hearing-impaired and may include qualified sign language or oral interpreters, written materials, telephone handset amplifiers, assistive listening devices, telephones compatible with hearing aids, closed caption decoders, open and closed captioning, telecommunication devices for deaf persons (TDD/TTY), videotext displays or other effective methods of making aurally delivered materials available to individuals with hearing impairments.

*Candidate*—a person who has successfully passed the required test and/or meets the Civil Service minimum qualifications for the job sought.

*Disability*—a physical or mental impairment that substantially limits one or more of the major life activities of an individual, including a record of such impairment or being regarded as having such impairment.

*Effective Communication*—communication with persons with disabilities that is as effective as communication with others. Effective communication is achieved by furnishing appropriate auxiliary aids and services where necessary to afford qualified individuals with disabilities an equal opportunity to participate in or benefit from the services, programs or activities of the department.

*Equal Employment Opportunity (EEO)*—the operation of a system of human resources administration which ensures an environment that will provide an equal opportunity for public employment to all segments of society based on individual merit and fitness of applicants without regard to race, color, religion, sex, age, national origin, political affiliation or disability (except where sex, age or physical requirements constitute a bona fide occupational qualification necessary to the proper and efficient operation of the department.)

a. The Equal Employment Opportunity Commission (EEOC) is the federal regulatory body for EEO related complaints and charges.

*Essential Functions*—basic job duties that an employee/applicant must be able to perform, with or without reasonable accommodation.

*Ex-Offender*—those offenders who are no longer in the physical custody of the DPS and C or no longer under the supervision of the Division of Probation and Parole.

*Family and Medical Leave*—leave for which an employee may be eligible under the provisions of the Family and Medical Leave Act of 1993.

*Major Life Activity*—walking, seeing, hearing, breathing, caring for one's self, sitting, standing, lifting, learning, thinking, working and reproduction. This list is illustrative only. The impairment to a major life activity must be long term.

*Qualified Individual with a Disability*—an individual with a disability (as previously defined herein) who can perform the essential functions of the job with or without reasonable accommodation.

*Reasonable Accommodation*—a modification or adjustment to a job, service, program or activity, etc., that enables a qualified individual with a disability to have an equal opportunity for participation.

*Requestor*—a person who requests an accommodation for a disability.

*Seniority*—a calculation of the number of years of service to the department and used in comparison to another employee's or applicant's number of years of service to the department. Seniority may be used as a factor in employment decisions but may never be used as a substitute for age discrimination.

*Visitor*—for the purpose of this regulation, includes any non-departmental employee who is authorized to be on institutional grounds. i.e., volunteers, contractors, official guests, etc.

#### E. Procedures

##### 1. Coordination of ADA Matters

a. The secretary will establish and designate a Headquarters ADA Coordinator. This employee is charged with reviewing, recording and monitoring ADA matters for the department and will also advise and make recommendations to the secretary or designee regarding such matters as appropriate.

b. Each unit head will designate a primary unit ADA coordinator to coordinate unit ADA matters. All units will prominently post the name and telephone number of the unit ADA coordinator.

##### 2. Initiation of Requests for Accommodation

a. A qualified requestor with a known disability of a long term nature should be accommodated where reasonably possible, providing the accommodation does not constitute a danger to the requestor or others and does not create undue hardship on the department or its employees.

(NOTE: If a requestor is an employee, applicant or a candidate for employment, the requestor must be able to perform the essential functions of the job with the accommodation.)

b. The ADA does not require that a request for accommodation be provided in any particular manner; therefore, the department is charged with having knowledge, or deemed with having knowledge, of the request regardless of the form of the request.

c. If an employee, applicant or candidate for employment informs anyone in his chain of command, Human Resources personnel or the unit ADA coordinator that he has difficulty performing his job duties or participating in a program or service due to a medical condition, the employee, applicant or candidate for employment is deemed to have made a request for accommodation.

d. If a visitor informs an employee that he cannot participate in the visiting process or any other program or

service that the visitor is entitled to participate in, the visitor is deemed to have made a request for accommodation.

e. Once any request for accommodation has been received, either verbally or in writing, the person receiving the request should immediately relay the request to the unit ADA coordinator or designee.

f. An employee, applicant, candidate for employment (including ex-offenders) or visitor may complete a Request for Accommodation Form. The requestor completing the form must forward it to the unit ADA coordinator for processing.

### 3. Accommodation Review Process

a. Upon receipt of the completed Request for Accommodation Form, the unit ADA coordinator shall seek to determine the following:

i. if the medical condition is of a temporary or long-term nature;

ii. if additional medical information is needed from the requestor's physician or through a second opinion. At this point of the process, the unit ADA coordinator may inform the requestor that his doctor must complete an Essential Function Form to determine the following:

(NOTE: The Index of Essential Job Functions contains the essential functions form for each job category used by the department. The Index is maintained in each unit Human Resources Office.)

(a). what specific symptoms and functional limitations are creating barriers;

(b). if the limitations are predictable, subject to change, stable or progressive;

(c). how the limitations impact the requestor's ability to perform the job, and for visitors, how the limitations impact the requestor's ability to fully participate in the activities and services to which the requestor is entitled;

iii. the condition impairs a major life activity.

b. If questions remain, staff may contact the requestor's treating physician directly.

c. The unit ADA coordinator shall ensure that a formal request is submitted on a request for accommodation form and provide assistance as needed.

d. Once the initial information is gathered, a dialogue between the requestor and unit ADA coordinator regarding resolution of the problem shall begin.

e. The discussion may include the following matters.

i. If the problem is of a temporary nature, use of FMLA or sick leave, Workman's Compensation or a temporary halt of some job duties may resolve the problem.

ii. If a second medical opinion is needed, this is to be performed at the department's cost with a physician of the department's choosing.

iii. If the medical condition is deemed to be a qualified disability, this decision shall be documented.

(NOTE: Due to the nature of a disability, the disability may progress and require additional modifications at a later date.)

iv. The goal is to reach a mutually acceptable accommodation, if possible. The secretary or designee shall make the final decision on what the actual accommodation will be.

f. An exception to the need to make an accommodation includes, but is not limited to the following:

i. not a qualified disability;

ii. threat to one's self or others. Considerations are as follows:

(a). duration of the risk involved;

(b). nature and severity of the potential harm;

(c). likelihood that potential harm will occur;

(d). imminence of the potential harm;

(e). availability of any reasonable accommodation that might reduce or eliminate the risk;

iii. undue hardship. The decision to use this exception may be made by the Headquarters ADA Coordinator only after consultation with the undersecretary. A written description of the problem with the requested accommodation and the difficulty anticipated by the unit should be sent to the Headquarters ADA Coordinator. Considerations are as follows:

(a). scope of the accommodation;

(b). cost of the accommodation;

(c). budget of the department;

(d). longevity of the accommodation;

iv. alteration would fundamentally change the nature of the program, service or activity.

### 4. Decision

a. Consideration should be given on a case-by-case basis.

b. The granting of leave can be an accommodation.

c. Once the decision to accommodate or not is made, the requestor shall be informed in writing of the decision of whether or not an accommodation will be made, the reason for the decision and the accommodation to be made, if applicable, including any specific details concerning the accommodation. The requestor must also be informed of the right to appeal the decision to the Headquarters ADA Coordinator.

i. For each decision, a copy of the packet of information containing the decision, all information used to reach the decision and all attempts to resolve the request shall be forwarded to the Headquarters ADA Coordinator. The unit ADA coordinator shall ensure that all requests for accommodation are properly and timely entered into the department's ADA database.

d. The original of the packet of information concerning the request with the decision shall be maintained in a confidential file for three years after the requestor has left the department's employ or notification has been received that a requestor no longer wishes to be afforded visitor status.

### 5. Appeal

a. The requestor has the right to appeal the unit's decision for the following reasons only:

i. the finding that the medical condition is not a qualifying disability;

ii. the denial of an accommodation; or

iii. the nature of the accommodation.

b. The requestor shall forward the appeal of the unit's decision to the Headquarters ADA Coordinator.

c. At the discretion of the Headquarters ADA Coordinator, additional information or medical documentation may be requested.

d. After consultation with the undersecretary, the Headquarters ADA Coordinator shall issue a written appeal decision to the requestor, a copy of which shall also be sent to the appropriate Unit Head and unit ADA Coordinator.

e. No additional appeal will be accepted as the Headquarters ADA Coordinator's decision shall be final.

#### 6. Recordkeeping

a. The Headquarters ADA Coordinator shall maintain records of all requests for accommodation made throughout the department.

b. To ensure uniform and consistent compliance with the provisions of this regulation, the Headquarters ADA Coordinator shall maintain and track statistics concerning all requests for accommodation from employees, applicants, candidates for employment and visitors and the nature and outcome of the accommodations requested.

c. If a pattern becomes apparent following review of the statistics, the Headquarters ADA Coordinator will seek to remedy and/or correct any problems noted and report same to the secretary.

#### 7. Essential Job Functions

##### a. General Requirements

i. Employment candidates must complete an essential functions form at the time of interview for employment and/or return to employment. Employees may be required to complete an up-to-date essential functions form as appropriate and when deemed necessary by the unit head in order to ensure that the fundamental mission of the department is sustained.

ii. The Index of Essential Job Functions contains the essential functions form for each job category used by the department. The Index is maintained in each unit Human Resources Office.

##### b. Employee and Unit Specific Requirements

i. Employees may be required to complete an up-to-date essential functions form under the following conditions (not necessarily all inclusive):

(a). exhaustion of sick leave and if applicable, exhaustion of FMLA entitlement;

(b). expressed inability to participate in a mandatory work-related activity (i.e. training) and/or to perform essential job functions; and/or

(c). appearance of the inability to perform essential job functions.

ii. When any of the described conditions exist, the unit head will require the employee to provide a new essential functions form and "medical certification" from the employee's health care provider so the employee's status under the ADA can be assessed. The medical certification form must include a prognosis, whether the condition is temporary or permanent, when the condition began, the expected date of return to duty, whether the employee is able to perform the essential functions of the job with or without accommodation and a description of the accommodation needed.

NOTE: In certain situations, a second opinion by an independent third party may be appropriate. This opinion will be at the unit's expense.

#### 8. Conciliation Options for EEO and ADA Concerns

a. Should a requestor feel that he has experienced discrimination in any manner or not be satisfied with the

results of the request for accommodation, he may seek conciliation through Corrections Services' grievance process, through the EEOC for employment related complaints and/or the U.S. Department of Justice (USDOJ) for issues not related to employment.

b. Requestors are encouraged to use the internal procedures to address and resolve complaints to the extent possible. Use of these internal procedures does not restrict a requestor from filing with the appropriate federal agency prior to exhaustion of the department's internal process(es).

#### 9. Departmental Conciliation of EEO and ADA Matters

a. The Headquarters Human Resources Section shall coordinate the department's response(s) to complaints and charges of discrimination regarding equal employment opportunity matters. Complaints/charges may be addressed through the internal grievance procedure when such a grievance has been filed and heard at the appropriate unit levels.

b. For formal charges generated by the EEOC or the USDOJ, the unit head and the applicable unit's attorney will develop the department's response and conciliation opinion (if applicable.) Any unit receiving a "Notice of Charge of Discrimination" document from the EEOC or similar notice from the USDOJ shall forward the notice to the Headquarters Legal Services upon receipt.

#### 10. Employment Applications of Ex-Offenders

a. All applications for employment received from persons who are ex-offenders will be reviewed by a committee appointed by the secretary. The committee shall be composed of the chief of operations or designee, assistant secretary or designee and the headquarters human resources director or designee. Consideration will be given to the unit head's recommendation, the ex-offender's crime, sentence, institutional record and length of time free from other convictions. The committee's recommendations will then be submitted to the secretary or designee for review with the Unit Head.

b. Ex-offenders will not be eligible for employment in positions which require an employee to carry a firearm in the performance of duty. This restriction is based on applicable Civil Service job qualifications and state and federal law.

#### 11. Training

a. The department shall provide comprehensive annual training for all departmental personnel regarding this regulation.

b. Additional information pertaining to EEO, ADA and ADEA is available in any human resources office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:953.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 26:1308 (June 2000), amended LR 35:

James M. Le Blanc  
Secretary

0906#044

## DECLARATION OF EMERGENCY

### Department of Public Safety and Corrections State Uniform Construction Code Council

State Uniform Construction Code—International  
Mechanical Code (LAC 55:VI.301)

The Louisiana Department of Public Safety and Corrections, Louisiana State Uniform Construction Code Council hereby adopts the following Emergency Rule governing the implementation of Act 12 of the 2005 First Extraordinary Session, R.S. 40:1730.21 et seq. This Rule is being adopted in accordance with the Emergency Rule provisions of R.S. 49:953(B) of the Administrative Procedure Act. This Emergency Rule becomes effective on the date of the signature by the authorized representative of the Louisiana State Uniform Construction Council (LSUCCC) and shall remain in effect for the maximum period allowed by the APA, which is 120 days.

The 2006 edition of the International Mechanical Code (IMC) contained requirements for commercial construction that were inefficient and costly. The Louisiana State Uniform Construction Code Council must now, through this Rule, adopt certain provisions of the 2007 supplement to the IMC to eliminate these costly requirements. Immediate adoption of this Rule will result in significant savings to owners of commercial buildings being constructed, as well as to owners of such buildings to be built in the future.

#### Title 55

#### PUBLIC SAFETY

#### Part VI. Uniform Construction Code

#### Chapter 3. Adoption of the Louisiana State Uniform Construction Code

#### §301. Louisiana State Uniform Construction Code

A. - A.3. b. i.(b). ...

4. International Mechanical Code, 2006 Edition, and the standards referenced in that code for regulation within this state. Furthermore, IMC Section 403.1 through Section 403.7 of the IMC shall be amended to include the following:

#### Section 403.1 Change to read as shown: (M44-06/07)

403.1 Ventilation system. Mechanical ventilation shall be provided by a method of supply air and return or exhaust air. The amount of supply air shall be approximately equal to the amount of return and exhaust air. The system shall not be prohibited from producing negative or positive pressure. The system to convey ventilation air shall be designed and installed in accordance with Chapter 6.

#### Section 403.2 Change to read as shown: (M44-06/07)

403.2 Outdoor air required. The minimum outdoor airflow rate shall be determined in accordance with Section 403.3. Ventilation supply systems shall be designed to deliver the required rate of outdoor airflow to the breathing zone within each occupiable space.

Exception: Where the registered design professional demonstrates that an engineered ventilation system design will prevent the maximum concentration of contaminants from exceeding that obtainable by the rate of outdoor air ventilation determined in accordance with Section 403.3, the minimum required rate of outdoor air shall be reduced in accordance with such engineered system design.

#### Section 403.2.1 Change to read as shown: (M44-06/07)

403.2.1 Recirculation of air. The outdoor air required by Section 403.3 shall not be recirculated. Air in excess of that required by Section 403.3 shall not be prohibited from being recirculated as a component of supply air to building spaces, except that:

1. Ventilation air shall not be recirculated from one dwelling to another or to dissimilar occupancies.

2. Supply air to a swimming pool and associated deck areas shall not be recirculated unless such air is dehumidified to maintain the relative humidity of the area at 60 percent or less. Air from this area shall not be recirculated to other spaces where 10 percent or more of the resulting supply airstream consists of air recirculated from these spaces.

3. Where mechanical exhaust is required by Note b in Table 403.3, recirculation of air from such spaces shall be prohibited. All air supplied to such spaces shall be exhausted, including any air in excess of that required by Table 403.3.

4. Where mechanical exhaust is required by Note h in Table 403.3, mechanical exhaust is required and recirculation is prohibited where 10 percent or more of the resulting supply airstream consists of air recirculated from these spaces.

#### Section 403.2.2 Change to read as shown: (M44-06/07)

403.2.2 Transfer air. Except where recirculation from such spaces is prohibited by Table 403.3, air transferred from occupiable spaces is not prohibited from serving as makeup air for required exhaust systems in such spaces as kitchens, baths, toilet rooms, elevators and smoking lounges. The amount of transfer air and exhaust air shall be sufficient to provide the flow rates as specified in Section 403.3. The required outdoor airflow rates specified in Table 403.3 shall be introduced directly into such spaces or into the occupied spaces from which air is transferred or a combination of both.

#### Section 403.3 Change to read as shown: (M44-06/07)

403.3 Outdoor airflow rate. Ventilation systems shall be designed to have the capacity to supply the minimum outdoor airflow rate determined in accordance with this section. The occupant load utilized for design of the ventilation system shall not be less than the number determined from the estimated maximum occupant load rate indicated in Table 403.3. Ventilation rates for occupancies not represented in Table 403.3 shall be those for a listed occupancy classification that is most similar in terms of occupant density, activities and building construction; or shall be determined by an approved engineering analysis. The ventilation system shall be designed to supply the required rate of ventilation air continuously during the period the building is occupied, except as otherwise stated in other provisions of the code.

With the exception of smoking lounges, the ventilation rates in Table 403.3 are based on the absence of smoking in occupiable spaces. Where smoking is anticipated in a space other than a smoking lounge, the ventilation system serving the space shall be designed to provide ventilation over and above that required by Table 403.3 in accordance with accepted engineering practice.

Exception: The occupant load is not required to be determined, based on the estimated maximum occupant load rate indicated in Table 403.3 where approved statistical data document the accuracy of an alternate anticipated occupant density.

#### Section 403.3.1 "System operation" Relocated to Section 403.5: (M44-06/07)

#### Section 403.3.1 Add new section to read as shown: (M44-06/07)

403.3.1 Zone outdoor airflow. The minimum outdoor airflow required to be supplied to each zone shall be determined as a function of occupancy classification and space air distribution effectiveness in accordance with Sections 403.3.1.1 through 403.3.1.3.

Sections 403.3.1.1, 403.3.1.2, Table 403.3.1.2, Section 403.3.1.3 Add new sections and new table to read as shown: (M44-06/07)

403.3.1.1 Breathing zone outdoor airflow. The outdoor airflow rate required in the breathing zone ( $V_{bz}$ ) of the occupiable space or spaces in a zone shall be determined in accordance with Equation 4-1.

$$V_{bz} = R_p P_z + R_a A_z \quad (\text{Equation 4-1})$$

where:

$A_z$  = zone floor area: the net occupiable floor area of the space or spaces in the zone.

$P_z$  = zone population: the number of people in the space or spaces in the zone.

$R_p$  = people outdoor air rate: the outdoor airflow rate required per person from Table 403.3

$R_a$  = area outdoor air rate: the outdoor airflow rate required per unit area from Table 403.3

403.3.1.2 Zone air distribution effectiveness. The zone air distribution effectiveness ( $E_z$ ) shall be determined using Table 403.3.1.2.

**Table 403.3.1.2 Zone Air Distribution Effectiveness**

Air Distribution Configuration	$E_z$
Ceiling or floor supply of cool air	1.0 <sup>f</sup>
Ceiling or floor supply of warm air and floor return	1.0
Ceiling supply of warm air and ceiling return	0.8 <sup>g</sup>
Floor supply of warm air and ceiling return	0.7
Makeup air drawn in on the opposite side of the room from the exhaust and/or return	0.8
Makeup air drawn in near to the exhaust and/or return location	0.5

For SI: 1 foot = 304.8 mm, 1 foot per minute = 0.00506 m/s,  $C = [(F) - 32]/1.8$ .

- "Cool air" is air cooler than space temperature.
- "Warm air" is air warmer than space temperature.
- "Ceiling" includes any point above the breathing zone.
- "Floor" includes any point below the breathing zone.
- "Makeup air" is air supplied or transferred to a zone to replace air removed from the zone by exhaust or return systems.
- Zone air distribution effectiveness of 1.2 shall be permitted for systems with a floor supply of cool air and ceiling return, provided that low-velocity displacement ventilation achieves unidirectional flow and thermal stratification.
- Zone air distribution effectiveness of 1.0 shall be permitted for systems with a ceiling supply of warm air, provided that supply air temperature is less than 15° F above space temperature and provided that the 150 foot-per-minute supply air jet reaches to within 4.5 feet of floor level.

403.3.1.3 Zone outdoor airflow. The zone outdoor airflow rate ( $V_{oz}$ ), shall be determined in accordance with Equation 4-2.

$$V_{oz} = V_{bz}/E_z \quad (\text{Equation 4-2})$$

Section 403.3.2 Change to read as shown: (M44-06/07)

403.3.2 System outdoor airflow. The outdoor air required to be supplied by each ventilation system shall be determined in accordance with Sections 403.3.2.1 through 403.2.3 as a function of system type and zone outdoor airflow rates.

Sections 403.3.2.1, 403.3.2.2, 403.3.2.3, 403.3.2.3.1, 403.3.2.3.2, Table 403.3.2.3.2, Sections 403.3.2.3.3, 403.3.2.3.4 Add new sections and table to read as shown: (M44-06/07)

403.3.2.1 Single zone systems. Where one air handler supplies a mixture of outdoor air and recirculated return air to only one zone, the system outdoor air intake flow rate ( $V_{ot}$ ) shall be determined in accordance with Equation 4-3.

$$V_{ot} = V_{oz} \quad (\text{Equation 4-3})$$

403.3.2.2 100-percent outdoor air systems. Where one air handler supplies only outdoor air to one or more zones, the system outdoor air intake flow rate ( $V_{ot}$ ) shall be determined using Equation 4-4.

$$V_{ot} = \sum_{\text{all zones}} V_{oz} \quad (\text{Equation 4-4})$$

403.3.2.3 Multiple zone recirculating systems. Where one air handler supplies a mixture of outdoor air and recirculated return air to more than one zone, the system outdoor air intake flow rate ( $V_{ot}$ ) shall be determined in accordance with Sections 403.3.2.3.1 through 403.3.2.3.5.

403.3.2.3.1 Primary Outdoor Air Fraction. The primary outdoor air fraction ( $Z_p$ ) shall be determined for each zone in accordance with Equation 4-5.

$$Z_p = V_{oz}/V_{pz} \quad (\text{Equation 4-5})$$

where:

$V_{pz}$  = Primary airflow: The airflow rate supplied to the zone from the air-handling unit at which the outdoor air intake is located. It includes outdoor intake air and recirculated air from that air-handling unit but does not include air transferred or air recirculated to the zone by other means. For design purposes,  $V_{pz}$  shall be the zone design primary airflow rate, except for zones with variable air volume supply and  $V_{pz}$  shall be the lowest expected primary airflow rate to the zone when it is fully occupied.

403.3.2.3.2 System ventilation efficiency. The system ventilation efficiency ( $E_v$ ) shall be determined using Table 403.3.2.3.2 or Appendix A of ASHRAE 62.1.

**Table 403.3.2.3.2 System Ventilation Efficiency**

Max ( $Z_p$ )	$E_v$
0.15	1.0
0.25	0.9
0.35	0.8
0.45	0.7
0.55	0.6
0.65	0.5
0.75	0.4
> 0.75	0.3

a. Max ( $Z_p$ ) is the largest value of  $Z_p$  calculated using Equation 4-5 among all the zones served by the system.

b. Interpolating between table values shall be permitted.

403.3.2.3.3 Uncorrected outdoor air intake. The uncorrected outdoor air intake flow rate ( $V_{ou}$ ) shall be determined in accordance with Equation 4-7.

$$V_{ou} = D \sum_{\text{all zones}} R_p P_z + \sum_{\text{all zones}} R_a A_z \quad (\text{Equation 4-7})$$

where:

$D$  = Occupant diversity: the ratio of the system population to the sum of the zone populations, determined in accordance with Equation 4-8.

$$D = P_s / \sum_{\text{all zones}} P_z \quad (\text{Equation 4-8})$$

where:

$P_s$  = System population: The total number of occupants in the area served by the system. For design purposes,  $P_s$  shall be the maximum number of occupants expected to be concurrently in all zones served by the system.

403.3.2.3.4 Outdoor air intake flow rate. The outdoor air intake flow rate ( $V_{ot}$ ) shall be determined in accordance with Equation 4-9.

$$V_{ot} = V_{ou}/E_v \quad (\text{Equation 4-9})$$

Section 403.3.3 "Variable air volume system control" Relocated to Section 403.6: (M44-06/07) Section 403.3.4 "Balancing" Relocated to Section 403.7: (M44-06/07)



Table 403.3 Change table to read as shown: (M44-06/07, M48-06/07)

Table 403.3 Minimum Ventilation Rates

Occupancy Classification	People Outdoor Airflow Rate in Breathing Zone Cfm/person	Area Outdoor Airflow Rate In Breathing Zone Ra Cfm/ft2a	Default Occupant Density #/1000 ft2a	Exhaust Airflow Rate Cfm/ft2a
<b>Correctional facilities</b>				
Cells				
without plumbing fixtures	5	0.12	25	-
with plumbing fixtures <sub>g</sub>	5	0.12	25	1.0
Dining halls (See Food and Beverage Service)	-	-	-	-
Guard stations	5	0.06	15	-
Day room	5	0.06	30	-
Booking/waiting	7.5	0.06	50	-
<b>Dry Cleaners, laundries</b>				
Coin-operated dry cleaner	15	-	20	-
Coin-operated laundries	7.5	0.06	20	-
Commercial dry cleaner	30	-	30	-
Commercial laundry	25	-	10	-
Storage, pick up	7.5	.12	30	-
<b>Education</b>				
Auditoriums	5	0.06	150	-
Corridors (See Public Spaces)	-	-	-	-
Media center	10	0.12	25	-
Sports locker room <sub>g</sub>	-	-	-	0.5
Music/theater/dance	10	0.06	35	-
Smoking lounges <sub>b</sub>	60	-	70	-
Daycare (through age 4)	10	0.18	25	-
Classrooms (ages 5-8)	10	0.12	25	-
Classrooms (age 9 plus)	10	0.12	35	-
Lecture classroom	7.5	0.06	65	-
Lecture hall (fixed seats)	7.5	0.06	150	-
Art classroom <sub>g</sub>	10	0.18	20	0.7
Science laboratories <sub>g</sub>	10	0.18	25	1.0
Wood/metal shops <sub>g</sub>	10	0.18	20	0.5
Computer lab	10	0.12	25	-
Multi-use assembly	7.5	0.06	100	-
Locker/dressing rooms <sub>g</sub>	-	-	-	0.25
<b>Food and beverage service</b>				
Bars, cocktail lounges	7.5	0.18	100	-
Cafeteria, fast food	7.5	0.18	100	-
Dining rooms	7.5	0.18	70	-
Kitchens (cooking) <sub>b</sub>	-	-	-	0.7
<b>Hospitals, nursing and convalescent homes</b>				
Autopsy rooms <sub>b</sub>		-	-	0.5
Medical procedure rooms	15	-	20	-
Operating rooms	30	-	20	-
Patient rooms	25	-	10	-
Physical therapy	15	-	20	-
Recovery and ICU	15	-	20	-
<b>Hotels, motels, resorts and dormitories</b>				
Multi-purpose assembly	5	0.06	120	-
Bathrooms/Toilet - private <sub>g</sub>	-	-	-	f25/50
Bedroom/living room	5	0.06	10	-
Conference/meeting	5	0.06	50	-
Dormitory sleeping areas	5	0.06	20	-
Gambling casinos	7.5	0.18	120	-
Lobbies/pre-function	7.5	0.06	30	-
<b>Offices</b>				
Conference rooms	5	0.06	50	-
Office spaces	5	0.06	5	-
Reception areas	5	0.06	30	-
Telephone/data entry	5	0.06	60	-
Main entry lobbies	5	0.06	10	-

Occupancy Classification	People Outdoor Airflow Rate in Breathing Zone Cfm/person	Area Outdoor Airflow Rate In Breathing Zone Ra Cfm/ft2a	Default Occupant Density #/1000 ft2a	Exhaust Airflow Rate Cfm/ft2a
<b>Private dwellings, single and multiple</b> Garages, common for multiple units <sub>b</sub> Garages, separate for each dwelling <sub>b</sub> Kitchens <sub>b</sub> Living areas <sub>c</sub>	- - - 0.35 ACH but not less than 15 cfm/person	- - - -	- - - Based upon number of bedrooms. first bedroom 2; each additional bedroom: 1	0.75 100 cfm per car 25/100f -
Toilet rooms and bathrooms <sub>g</sub>	-	-	-	20/50f
<b>Public spaces</b> Corridors Elevator car Shower room (per shower head) <sub>g</sub> Smoking lounges <sub>b</sub> Toilet rooms – public <sub>g</sub> Places of religious worship Courtrooms Legislative chambers Libraries Museums (children`s) Museums/galleries	- - - 60 - 5 5 5 5 7.5 7.5	0.06 - - - - 0.06 0.06 0.06 0.12 0.12 0.06	- - - 70 - 120 70 50 10 40 40	- 1.0 50/20f - 50/70e
<b>Retail stores, sales floors and showroom floors</b> Sales (except as below) Dressing rooms Mall common areas Shipping and receiving Smoking lounges <sub>b</sub> Storage rooms Warehouses (See Storage)	7.5 - 7.5 - 60 - -	0.12 - 0.06 0.12 - 0.12 -	15 - 40 - 70 - -	- 0.25 - - - - -
<b>Specialty shops</b> Automotive motor-fuel dispensing stations <sub>b</sub> Barber Beauty and nail salons <sub>b</sub> , i Embalming room <sub>b</sub> Pet shops (animal areas) <sub>b</sub> Supermarkets	- 7.5 20 - 7.5 7.5	- 0.06 0.12 - 0.18 0.06	- 25 25 - 10 8	1.5 0.5 0.6 2.0 0.9 -
<b>Sports and amusement</b> Disco/dance floors Bowling alleys (seating areas) Game arcades Ice arenas without combustion engines Gym, stadium, arena (play area) Spectator areas Swimming pools (pool and deck area) Health club/aerobics room Health club/weight room	20 10 7.5 - - 7.5 - 20 20	0.06 0.12 0.18 0.30 0.30 0.06 0.48 0.06 0.06	100 40 20 - - 150 - 40 10	- - - 0.5 - - - - -
<b>Storage</b> Repair garages, enclosed parking garages <sub>b,d</sub> Warehouses	- -	- 0.06	- -	0.75 -
Theaters Auditoriums (See Education) Lobbies Stages, studios Ticket booths	- - 5 10 5	- - 0.06 0.06 0.06	- - 150 70 60	- - - - -
<b>Transportation</b> Platforms Transportation waiting	7.5 7.5	0.06 0.06	100 100	- -
<b>Workrooms</b> Bank vaults/safe deposit Darkrooms Copy, printing rooms Meat processing <sub>c</sub> Pharmacy (prep. area) Photo studios Computer (without printing)	5 - 5 15 5 5 5	0.06 - 0.06 - 0.18 0.12 0.06	5 - 4 10 10 10 4	1.0 0.5 - - - - -

For SI: 1 cubic foot per minute = 0.0004719 m<sup>3</sup>/s, 1 ton = 908 kg,  
1 cubic foot per minute per square foot = 0.00508 m<sup>3</sup>/(s m<sup>2</sup>),  
C = [(F) -32]/1.8, 1 square foot = 0.0929 m<sup>2</sup>.

a. Based upon net occupiable floor area  
b. Mechanical exhaust required and the recirculation of air from such spaces is prohibited (see Section 403.2.1, Item 3).

c. Spaces unheated or maintained below 50° F are not covered by these requirements unless the occupancy is continuous.

d. Ventilation systems in enclosed parking garages shall comply with Section 404.

e. Rates are per water closet or urinal. The higher rate shall be provided where periods of heavy use are expected to occur, such as, toilets in theaters, schools, and sports facilities. The lower rate shall be permitted where periods of heavy use are not expected.

f. Rates are per room unless otherwise indicated. The higher rate shall be provided where the exhaust system is designed to operate intermittently. The lower rate shall be permitted where the exhaust system is designed to operate continuously during normal hours of use.

g. Mechanical exhaust is required and recirculation is prohibited except that recirculation shall be permitted where the resulting supply airstream consists of not more than 10 percent air recirculated from these spaces (see Section 403.2.1, Items 2 and 4).

h. For nail salons, the required exhaust shall include ventilation tables or other systems that capture the contaminants and odors at their source and are capable of exhausting a minimum of 50 cfm per station.

**Section 403.4** Add new section to read as shown: (M44-06/07)

403.4 Exhaust Ventilation. Exhaust airflow rate shall be provided in accordance with the requirements in Table 403.3. Exhaust makeup air shall be permitted to be any combination of outdoor air, recirculated air and transfer air, except as limited in accordance with Section 403.2.

**Section 403.5** Relocated from Section 403.3.1 with no change to current text: (M44-06/07)

**Section 403.6** Relocated from 403.3.3 and changed to read as shown: (M44-06/07)

403.6 Variable air volume system control. Variable air volume air distribution systems, other than those designed to supply only 100-percent outdoor air, shall be provided with controls to regulate the flow of outdoor air. Such control system shall be designed to maintain the flow rate of outdoor air at a rate of not less than that required by Section 403.3 over the entire range of supply air operating rates.

**Section 403.7** Relocated from Section 403.3.4 and changed to read as shown: (M44-06/07)

403.7 Balancing. The ventilation air distribution system shall be provided with means to adjust the system to achieve at least the minimum ventilation airflow rate as required by Sections 403.3 and 403.4. Ventilation systems shall be balanced by an approved method. Such balancing shall verify that the ventilation system is capable of supplying and exhausting the airflow rates required by Sections 403.3 and 403.4.

5. - 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 33:292 (February 2007), amended LR 34:93 (January 2008), LR 34:883 (May 2008), LR34:2205 (October 2008), LR 35:

Denise Jobe  
Administrator

0906#005

## DECLARATION OF EMERGENCY

Department of Social Services  
Office of Community Services

Daycare Services (LAC 67:V.2301)

The Department of Social Services (DSS), Office of Community Services (OCS), has exercised the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), to amend LAC 67:V, Subpart 4, Chapter 23, Daycare, Section 2301, to become effective June 4, 2009. This action is necessary to extend the original Emergency Rule of February 4, 2009, which will expire before the final Rule takes effect. This second Emergency Rule shall remain in effect until the proposed Rule becomes final or for a period of 120 days. The final Rule will be published in the July 2009 *Louisiana Register*.

Emergency action is necessary to allow the transfer of funds within the DSS from the Office of Family Support (OFS) to the OCS for the payment of daycare services delivered to a non-custody child of a minor child in foster care. The OFS provides OCS with the majority of funds utilized to support the agency's daycare services program of which this service is a part.

### Title 67

### SOCIAL SERVICES

### Part V. Community Services

### Subpart 4. Daycare Services

### Chapter 23. Daycare

### §2301. Daycare Services

A. - D. ...

E. The non-custody child of a minor child in foster care is upon birth at risk for abuse and or neglect due to: the abuse/neglect history of the parent, the legal status of the parent as a minor and a ward of the state, the lack of financial or other support resources of the minor parent, and, the competency level of the minor parent to provide care for a child. Protective services provided to insure the safety and well-being of a non-custody child of minor child in foster care shall include but not be limited to child care assistance.

**AUTHORITY NOTE:** Promulgated in accordance with 45 CFR Part 98.

**HISTORICAL NOTE:** Promulgated by the Department of Social Services, Office of Community Services, LR 11:689 (July 1985), amended LR 18:868 (August 1992), LR 25:2443 (December 1999), LR 31:101 (January 2005), LR 33:1685 (August 2007), LR 35:961 (May 2009), LR 35:

Kristy N. Nichols  
Secretary

0906#011

## DECLARATION OF EMERGENCY

### Department of Wildlife and Fisheries Wildlife and Fisheries Commission

#### Commercial Tilefish Closure

The commercial season for the harvest of tilefishes in Louisiana state waters will close effective 12:01 a.m. on May 15, 2009. The tilefish assemblage includes tilefish, goldface tilefish, blackline tilefish, anchor tilefish and blueline tilefish. The secretary has been informed that the commercial season for tilefishes in the Federal waters of the Gulf of Mexico off the coast of Louisiana will close at 12:01 a.m. on May 15, 2009, and will remain closed until 12:01 a.m., January 1, 2010.

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 49:967 which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons, R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, and the authority given to the secretary of the department by the commission in its resolution of January 8, 2009 to modify opening and closing dates of 2009 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 tilefishes in Louisiana waters will close at 12:01 a.m. on May 15, 2009, and remain closed until 12:01 a.m., January 1, 2010. Effective with this closure, no person shall commercially harvest, possess, purchase, barter, trade, sell or attempt to purchase, barter, trade or sell tilefishes whether within or without Louisiana waters. Effective with the closure, no person shall possess tilefishes in excess of a daily bag limit, which may only be in possession during the open recreational season. Nothing shall prohibit the possession or sale of fish legally taken prior to the closure providing that all commercial dealers possessing tilefishes 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 tilefish season in Federal waters of the Gulf of Mexico will both close at 12:01 a.m. on May 15, 2009, and the season will remain closed until 12:01 a.m., January 1, 2010. 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 J. Barham  
Secretary

0906#002

## DECLARATION OF EMERGENCY

### Department of Wildlife and Fisheries Wildlife and Fisheries Commission

#### Red Snapper Recreational Season Closure

The recreational season for the harvest of red snapper in Louisiana state waters has previously been set to open at 12:01 a.m., June 1, 2009. The season is hereby established to close effective 12:01 a.m. on August 15, 2009. The secretary has been informed that the recreational season for red snapper in the Federal waters of the Gulf of Mexico off the coast of Louisiana will close at 12:01 a.m. on August 15, 2009, and will remain closed until 12:01 a.m., June 1, 2010, when the season is scheduled to re-open in both state and federal waters.

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 49:967 which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons, R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, and the authority given to the secretary of the department by the commission in its resolution of January 8, 2009 to modify opening and closing dates of the 2009 recreational red snapper seasons in Louisiana state waters when he is informed by the regional director of NOAA Fisheries that the season dates have been modified in adjacent Federal waters, and that NOAA Fisheries requests that the season be modified in Louisiana state waters, the secretary hereby declares:

The recreational fishery for red snapper in Louisiana waters will close at 12:01 a.m. on August 15, 2009, and remain closed until 12:01 a.m., June 1, 2010. Effective with this closure, no person shall recreationally harvest or possess red snapper whether within or without Louisiana waters.

The secretary has been notified by NOAA Fisheries that the recreational red snapper season in Federal waters of the Gulf of Mexico will close at 12:01 a.m. on August 15, 2009, and the season will remain closed until 12:01 a.m. June 1, 2010. Having compatible season regulations in state waters is necessary to provide effective rules and efficient enforcement for the fishery, to prevent overfishing of this species in the long term.

Robert J. Barham  
Secretary

0906#001

# Rules

## RULE

### Board of Elementary and Secondary Education

Bulletin 124—Supplemental Educational Services—SES Provider Responsibilities (LAC 28:CXXXV.115)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended *Bulletin 124—Supplemental Educational Services*: §115, SES Provider Responsibilities. The amendment incorporates ethics practices surrounding the employing of school district personnel and the provisions in which rewards/incentives can be given to students enrolled in Supplemental Education Services programs. In the past two years, many LEA's have been concerned with SES state-approved providers enticing students and parents to sign-up with their programs based upon a reward or incentive. A focus group of SES district coordinators and state-approved providers were convened to discuss this issue on May 22, 2008. At that time the focus group agreed upon language that would better address the ethical responsibility associated with providing incentives.

#### Title 28 EDUCATION

#### Part CXXXV. Bulletin 124—Supplemental Educational Services

#### Chapter 1. Supplemental Educational Services

#### §115. SES Provider Responsibilities

A. - A.3. ...

4. Providers shall not employ or compensate district employees who currently serve the districts in the capacity of principal, assistant principal, or district SES coordinator in exchange for access to facilities or to obtain student lists. School personnel may be hired for instructional and/or coordination purposes only.

5. - 8. ...

9. Providers shall offer enrolled students performance rewards with a maximum value of 5 percent of the school district's per pupil allocation (PPA) and 0.5 percent of the providers' total collected PPA to be used for a culminating activity during the contract year. The performance reward should be directly linked to documented meaningful attendance benchmarks and/or the completion of assessment and program objectives. These incentives shall not be advertised in advance of actual enrollment.

10. Providers shall adhere to and submit assurances for supplemental educational services annually.

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.17.6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:2047 (October 2007), amended LR 35:1097 (June 2009).

Jeanette Vosburg  
Acting Executive Director

0906#021

## 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 amended *Bulletin 741—Louisiana Handbook for School Administrators*: §1103. Compulsory Attendance. This revision allows excused absences for students for visitation with a parent who is a member of the United States Armed Forces or the National Guard of a state and such parent has been called to duty for or is on leave from overseas deployment to a combat zone or combat support posting. Excused absences in this situation shall not exceed five school days per school year. The revision to Section 1103 is required by Act 142 of the 2008 Louisiana Legislature.

#### Title 28 EDUCATION

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

#### Chapter 11. Student Services

#### §1103. Compulsory Attendance

A. - H. ...

I. The only exception to the attendance regulation shall be the enumerated extenuating circumstances that are verified by the Supervisor of Child Welfare and Attendance. Students shall be temporarily excused from the attendance regulation for the following reasons:

1. - 5. ...

6. visitation with a parent who is a member of the United States Armed Forces or the National Guard of a state and such parent has been called to duty for or is on leave from overseas deployment to a combat zone or combat support posting. Excused absences in this situation shall not exceed five school days per school year.

J. - M. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:221; R.S. 17:226; 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 35:1097 (June 2009).

Jeanette Vosburg  
Acting Executive Director

0906#026

**RULE**

**Board of Elementary and Secondary Education**

Bulletin 741—Louisiana Handbook for School Administrators—Guidelines for Expulsions (LAC 28:CXV.1309)

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*: §1309, Guidelines for Expulsions. This revision specifies the offenses for which expelled students and their parents or guardians shall have enrolled in and participate in an appropriate rehabilitation or counseling program. The offenses include possession of a firearm or dangerous weapon, or possession with intent to distribute or distributing or selling any controlled substance on school property or a school bus. The revision to Section 1309 is required by Act 145 of the 2008 Louisiana Legislature.

**Title 28  
EDUCATION**

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

**Chapter 13. Discipline**

**§1309. Guidelines for Expulsions**

A. No student who has been expelled from any public or nonpublic school outside the state of Louisiana or any nonpublic school within Louisiana for committing any offenses enumerated in R.S. 17:416 shall be admitted to any public school in the state except upon the review and approval by the governing body of the admitting school.

B. Any student who has been expelled from any public or nonpublic school within or outside the state of Louisiana for one of the reasons listed below shall produce documentation that he or she and his/her parent or legal guardian have enrolled in and participated in an appropriate rehabilitation or counseling program related to the reason(s) for the expulsion prior to being admitted or readmitted on a probationary basis to any public school in the state, unless such requirement is waived by the LEA:

1. possessing on school property or on a school bus a firearm, knife, or other dangerous weapon, or instrumentality customarily used or intended for probable use as a dangerous weapon; or
  2. possessing with intent to distribute, or distributing, selling, giving, or loaning while on school property or on a school bus any controlled dangerous substance governed by the Uniform Controlled Dangerous Substances Law.
- C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.17:416.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1284 (June 2005), amended LR 34:608 (April 2008), LR 35:1098 (June 2009).

Jeanette Vosburg  
Acting Executive Director

0906#028

**RULE**

**Board of Elementary and Secondary Education**

Bulletin 741—Louisiana Handbook for School Administrators—Other Reports (LAC 28:CXV.723)

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*: §723, Other Reports. The revision to Section 723 adds the statement that no school employee shall be required by the local educational agency, the Board of Elementary and Secondary Education, or the Louisiana Department of Education to complete paperwork if the information provided for in such paperwork is reasonably and readily available from another source. The revision to Section 723 is required by Act 361 of the 2008 Louisiana Legislature.

**Title 28  
EDUCATION**

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

**Chapter 7. Records and Reports**

**§723. Other Reports**

A. Any other records and reports applicable to the LEA and to schools as required by BESE or the DOE shall be submitted.

B. No school employee shall be required by the LEA, BESE, or the DOE to complete paperwork if the information provided for in such paperwork is reasonably and readily available from another source.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1271 (June 2005), amended LR 35:1098 (June 2009).

Jeanette Vosburg  
Acting Executive Director

0906#025

**RULE**

**Board of Elementary and Secondary Education**

Bulletin 741—Louisiana Handbook for School Administrators—Placement of Students (LAC 28:CXV.1110)

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*: §1110. Placement of Students. The addition of Section 1110 specifies that the parent of more than one child born at the same birth event may request that such children initially be placed in the same classroom or in separate classrooms if the children are enrolled in the same grade level at the same public elementary school. The request by the parent shall be granted subject to certain stipulations and the initial placement shall be reviewed by the local superintendent after the first grading period. The revision to Section 1110 is required by Act 507 of the 2008 Louisiana Legislature.

## **Title 28**

### **EDUCATION**

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

##### **Chapter 11. Student Services**

###### **§1110. Placement of Students**

A. A parent of more than one child born at the same birth event may request that such children initially be placed in the same classroom or in separate classrooms if the children are enrolled in the same grade level at the same public elementary school. The request by the parent shall be granted subject to the stipulations listed below.

1. The students must be enrolling in a public elementary school in pre-kindergarten through the second grade.

2. Appropriate school or school system employees may provide advice and information to the parent relative to such request and make recommendations to the parent regarding such placement.

3. The request for such placement shall be made to the superintendent of the LEA or his designee no later than 14 days after the first day of the school year or no later than 14 days after the first day of attendance if the child enrolls during a school year.

B. The initial placement shall be reviewed by the superintendent or his/her designee after the first grading period in consultation with the principal, teachers, and parents. If it is determined that the initial placement is disruptive to the school or not in the best interest of the child, the child shall be placed in accordance with LEA policy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:221.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 35:1099 (June 2009).

Jeanette Vosburg  
Acting Executive Director

0906#027

## **RULE**

### **Board of Elementary and Secondary Education**

Bulletin 741—Louisiana Handbook for School Administrators—Staff Misconduct (LAC 28:CXV.502)

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*: §502. Staff Misconduct. This

revision states that interaction between a student and a school employee in any classroom, office, meeting room, or other similarly enclosed area on school property is prohibited unless, during the full time of such interaction, another school employee, the student's parent, or other authorized adult is present, or the student and the employee are clearly viewable by persons outside the area through an open door or entrance or window or other means that provides an unobstructed view. Exceptions to this requirement include interaction between a student and a guidance counselor, between a student and a social worker, between a psychologist or other duly certified/licensed mental health or counseling professional; interaction between a student and a school employee when the school employee is appraising, evaluating, or testing the student in accordance with the provisions of BESE Bulletin 1508; interaction between a student and a school employee when the employee is providing services as required by the student's IEP; interaction between a student and a school employee engaged in the performance of a noncomplex health procedure as defined in R.S. 17:436(A); interaction between a student and a school nurse or other duly certified/licensed health care professional; and interaction between a student and a teacher or administrator concerning a matter of confidentiality and/or safety. The revisions to Section 502 are required by Act 359 of the 2008 Louisiana Legislature.

## **Title 28**

### **EDUCATION**

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

##### **Chapter 5. Personnel**

###### **§502. Staff Misconduct**

A. - B.4. ...

C. Interaction between a student and a school employee in any classroom, office, meeting room, or other similarly enclosed area on school property is prohibited unless, during the full time of such interaction, another school employee, the student's parent, or other authorized adult is present, or the student and the employee are clearly viewable by persons outside the area through an open door or entrance or window or other means that provide an unobstructed view. The following exceptions apply:

1. interaction between a student and a guidance counselor as defined in R.S. 17:3002, or between a student and a social worker, a psychologist or other duly certified/licensed mental health or counseling professional;

2. interaction between a student and a school employee when the school employee is appraising, evaluating, or testing the student in accordance with the provisions of BESE Bulletin 1508;

3. interaction between a student and a school employee when the employee is providing services as required by the student's IEP;

4. interaction between a student and a school employee engaged in the performance of a noncomplex health procedure as defined in R.S. 17:436(A);

5. interaction between a student and a school nurse or other duly certified/licensed health care professional; and

6. interaction between a student and a teacher or administrator concerning a matter of confidentiality and/or safety.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:15; R.S. 17:587.1; R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1265 (June 2005), amended LR 33:431 (March 2007), LR 34:607 (April 2008), repromulgated LR 35:444 (March 2009), amended LR35:1099 (June 2009).

Jeanette Vosburg  
Acting Executive Director

0906#023

## RULE

### Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Teacher Bill of Rights (LAC 28: CXV.519)

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*: §519, Teacher Bill of Rights. The revision renames the list of the rights of teachers; provides for the immunity and legal defense of teachers; provides for the rights of beginning teachers; provides for the distribution of the list of rights to schools, parents, and legal guardians; and provides for the posting of the list of rights. The revision to Section 519 is required by Act 155 of the 2008 Louisiana Legislature.

#### Title 28

#### EDUCATION

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

#### Chapter 5. Personnel

#### §519. Teacher Bill of Rights

A. Respecting the authority of teachers is essential to creating an environment conducive to learning, effective instruction in the classroom, and proper administration of city, parish, and other local public schools. To maintain and protect that authority, it is important that teachers, administrators, parents, and students are fully informed of the various rights conferred upon teachers pursuant to this policy, which are:

1. a teacher has the right to teach free from the fear of frivolous lawsuits, including the right to qualified immunity and to legal defense, and to indemnification by the employing school board, pursuant to R.S. 17:416.1(C), 416.4, 416.5, and 416.11, for actions taken in the performance of duties of the teacher's employment;

2. a teacher has the right to appropriately discipline students in accordance with R.S. 17:223 and 416 through 416.16 and any city, parish, or other local public school board regulation;

3. a teacher has the right to remove any persistently disruptive student from his classroom when the student's behavior prevents the orderly instruction of other students or when the student displays impudent or defiant behavior and to place the student in the custody of the principal or his designee pursuant to R.S. 17:416(A)(1)(c);

4. a teacher has the right to have his or her professional judgment and discretion respected by school

and district administrators in any disciplinary action taken by the teacher in accordance with school and district policy and with R.S.17:416(A)(1)(c);

5. a teacher has the right to teach in a safe, secure, and orderly environment that is conducive to learning and free from recognized dangers or hazards that are causing or likely to cause serious injury in accordance with R.S. 17:416.9 and 416.16;

6. a teacher has the right to be treated with civility and respect as provided in R.S. 17:416.12;

7. a teacher has the right to communicate with and to request the participation of parents in appropriate student disciplinary decisions pursuant to R.S. 17:235.1 and 416(A);

8. a teacher has the right to be free from excessively burdensome disciplinary paperwork;

9. a beginning teacher has the right to receive leadership and support in accordance with R.S. 17:3881, including the assignment of a qualified, experienced mentor who commits to helping him become a competent, confident professional in the classroom and offers support and assistance as needed to meet performance standards and professional expectation.

B. No LEA shall establish policies that prevent teachers from exercising the rights listed above or in any other provisions included in R.S. 17:416 through 416.16.

C. The provisions of this policy shall not be construed to supersede any other state law, BESE policy, or LEA policy enacted or adopted relative to the discipline of students.

D. Each LEA shall provide a copy of this policy to all teachers at the beginning of each school year. Each such LEA also shall post a copy of the rights provided in this policy in a prominent place in every school and administrative building it operates and provide such a copy to parents or legal guardians of all children attending such schools in a form and manner approved by the school board. Each LEA and every school under its jurisdiction that maintains an Internet website shall post on such website a copy of the Teacher Bill of Rights required by this policy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:416.18.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1268 (June 2005), amended LR 35:1100 (June 2009).

Jeanette Vosburg  
Acting Executive Director

0906#024

## RULE

### Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Written Policies and Procedures (LAC 28: CXV.337)

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*: §337. Written Policies and Procedures. This revision requires LEAs to have policies and procedures regarding the notification of parents and guardians of the process to follow in making a complaint,

and regarding the implementation of the Louisiana Science Education Act. The revisions to Section 337 are required by Acts 907 and 473 of the 2008 Louisiana Legislature.

**Title 28  
EDUCATION**

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

**Chapter 3. Operation and Administration**

**§337. Written Policies and Procedures**

A. - B. ...

C. Each LEA shall have policies and procedures that address, but are not limited to, the following:

1. - 16. ...

17. the notification of the parent or legal guardian of every student, in writing, of the proper process and procedures to follow in order to make a complaint or request information from the school or the school's governing authority:

a. such information shall include, at a minimum, the name, address, phone number, and email address of the appropriate person to contact at each step of the prescribed process or procedure, and shall be updated, at least, on an annual basis;

b. such information shall be incorporated into any existing policy or policies, code of conduct, or student handbook of the LEA or of each school under its jurisdiction;

18. the implementation of §2304 Science Education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:81; R.S. 17:172; R.S.17:240; R.S. 17:285.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1261 (June 2005), amended LR 33:429 (March 2007), LR 35:1101 (June 2009).

Jeanette Vosburg  
Acting Executive Director

0906#022

**RULE**

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

Control Technology Guidelines  
(LAC 33:III.111, 2123, and 2143) (AQ296)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air regulations, LAC 33:III.111, 2123, and 2143 (Log #AQ296).

This Rule reflects changes made to the lithographic printing materials and letterpress printing materials Control Technology Guidelines (CTG) and the flexible package printing materials CTG that were published in the *Federal Register*, Volume 71, on October 5, 2006, pages 58745-58753. In addition, based on public comment, EPA incorporated an option into the industrial cleaning solvents CTG. In the *Federal Register*, Volume 72, on October 9, 2007, pages 57215-57222, EPA made changes to the paper, film, and foil coatings CTG, and the metal furniture coatings and large appliance coatings CTG. The final CTG for paper,

film, and foil coatings have been revised to provide separate applicability recommendations for coating operations and cleaning operations, and the final CTG for metal furniture coatings and large appliance coatings have been revised to reflect a lower volatile organic compound (VOC) content coatings recommendations. The Clean Air Act (CAA) Section 172(c)(1) provides that state implementation plans (SIPs) for nonattainment areas must include reasonably available control measures (RACM), including reasonably available control technology (RACT) for sources of emissions. CAA Section 182(b)(2)(A) provides that for certain nonattainment areas, states must revise their SIPs to include RACT for each category of VOC sources covered by a CTG document issued between November 15, 1990, and the date of attainment. EPA provides states with guidance concerning what types of controls could constitute RACT for a given source category through issuance of a CTG. States can follow the CTG and adopt state regulations to implement the recommendations contained therein, or they can adopt alternative approaches. The states must submit their RACT rules to EPA for review and approval as part of the SIP process. This rule amends the state air regulations to follow the CTG recommendations provided by EPA, which will then be included in the SIP to meet the requirements of the CAA. The basis and rationale for this rule are to meet the CAA requirements for SIP submittals. This proposed Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

**Title 33  
ENVIRONMENTAL QUALITY  
Part III. Air**

**Chapter 1. General Provisions**

**§111. Definitions**

A. When used in these rules and regulations, the following words and phrases shall have the meanings ascribed to them below.

\*\*\*

*Miscellaneous Metal Parts and Products Coating*—the coating of miscellaneous metal parts and products in the following categories:

a. - f. ...

g. any other category of coated metal products except those on the specified list in LAC 33:III.2123.C.1-3, 5-7, and 10 of surface coating processes, which are included in the Standard Industrial Classification Code major group 33 (primary metal industries), major group 34 (fabricated metal products), major group 35 (nonelectrical machinery), major group 36 (electrical machinery), major group 37 (transportation equipment), major group 38 (miscellaneous instruments), and major group 39 (miscellaneous manufacturing industries).

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:348 (June 1988), LR 15:1061 (December 1989), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:777 (August 1991), LR 21:1081 (October 1995),

LR 22:1212 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2444 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 32:808 (May 2006), LR 32:1599 (September 2006), LR 33:2082 (October 2007), LR 34:70 (January 2008), LR 35:1101 (June 2009).

**Chapter 21. Control of Emission of Organic Compounds**

**Subchapter B. Organic Solvents**

**§2123. Organic Solvents**

A. Except as provided in Subsections B and C of this Section, any emission source using organic solvents having an emission of organic solvents of more than 3 pounds (1.3 kilograms) per hour or 15 pounds (6.8 kilograms) per day shall reduce the emission, where feasible, by incorporating one or more of the following control methods:

1. incineration, provided 90 percent of the carbon in the organic compounds being incinerated is oxidized to carbon dioxide (except as provided in Subsection D of this Section);

2. carbon adsorption, with a control efficiency of at least 90 percent, of the organic compounds;

3. any other equivalent means as may be approved by the administrative authority. Once a source exceeds the emission cutoff specified in this Section that source shall be subject and shall remain subject to the requirements of this Subsection regardless of future emission rates.

B. Soldering operations, painting and coating operations not listed in Subsection C of this Section, and dry cleaning operations using organic solvents that are not considered photochemically reactive shall be considered for exemption from the requirements of this Section.

1. - 2. ...

C. Surface Coating Industries. No person may cause, suffer, allow, or permit volatile organic compound (VOC) emissions from the surface coating of any materials affected by this Subsection to exceed the emission limits as specified in this Section.

Affected Facility	Daily Weighted Average VOC Emission Limitation	
	Lbs. per Gal. of Coating as applied (minus water and exempt solvent)	Kgs. per Liter of Coating as applied (minus water and exempt solvent)
<b>1. Large Appliance Coating Industry</b>		
General, One Component (Baked/Air Dried)	2.3 / 2.3	0.275 / 0.275
General, Multi-Component (Baked/Air Dried)	2.3 / 2.8	0.275 / 0.340
Extreme High Gloss (Baked/Air Dried)	3.0 / 2.8	0.360 / 0.340
Extreme Performance (Baked/Air Dried)	3.0 / 3.5	0.360 / 0.420
Heat Resistant (Baked/Air Dried)	3.0 / 3.5	0.360 / 0.420
Metallic (Baked/Air Dried)	3.5 / 3.5	0.420 / 0.420
Pretreatment Coatings (Baked/Air Dried)	3.5 / 3.5	0.420 / 0.420
Solar Absorbent (Baked/Air Dried)	3.0 / 3.5	0.360 / 0.420

Affected Facility	Daily Weighted Average VOC Emission Limitation	
	Lbs. per Gal. of Coating as applied (minus water and exempt solvent)	Kgs. per Liter of Coating as applied (minus water and exempt solvent)
<b>2. Surface Coating of Cans</b>		
Sheet Basecoat (exterior and interior) and over-varnish: Two-piece can exterior (basecoat and over-varnish)	2.8	0.34
Two and three-piece can interior body spray, two-piece can exterior end (spray or roll coat)	4.2	0.51
Three-piece can side-seam spray	5.5	0.66
End sealing compound	3.7	0.44
<b>3. Surface Coating of Coils</b>		
Prime and topcoat or single coat operation	2.6	0.31
<b>4. Surface Coating of Fabrics</b>		
Fabric Facility	2.9	0.35
Vinyl Coating Line (except Plastico coatings)	3.8	0.45
<b>5. Surface Coating of Assembly Line Automobiles and Light Duty Trucks</b>		
Prime application, flashoff area and oven (determined on a monthly basis)	1.2	0.14
Primer surface application flashoff area and oven	2.8	0.34
Topcoat application, flashoff area and oven	2.8	0.34
Final repair application, flashoff area and oven	4.8	0.58
As an alternative to the emission limitation of 2.8 pounds of VOC per gallon of coating applied for the primer surfacer and/or topcoat application, compliance with these emission limitations may be demonstrated by meeting a standard of 15.1 pounds of VOC per gallon of solids deposited.		
<b>6. Surface Coating—Magnet Wire Coating</b>		
Coating Line	1.7	0.20
<b>7. Surface Coating of Metal Furniture</b>		
General, One Component (Baked/Air Dried)	2.3 / 2.3	0.275 / 0.275
General, Multi-Component (Baked/Air Dried)	2.3 / 2.8	0.275 / 0.340
Extreme High Gloss (Baked/Air Dried)	3.0 / 2.8	0.360 / 0.340
Extreme Performance (Baked/Air Dried)	3.0 / 3.5	0.360 / 0.420
Heat Resistant (Baked/Air Dried)	3.0 / 3.5	0.360 / 0.420
Metallic (Baked/Air Dried)	3.5 / 3.5	0.420 / 0.420
Pretreatment Coatings (Baked/Air Dried)	3.5 / 3.5	0.420 / 0.420
Solar Absorbent (Baked/Air Dried)	3.0 / 3.5	0.360 / 0.420
<b>8. Surface Coating of Miscellaneous Metal Parts and Products</b>		
Clear Coat	4.3	0.52
Air or force air dried items (not oven dried)	3.5	0.42
Frequent color change and/or large numbers of colors applied, or first coat on untreated ferrous substrate	3.0	0.36
Outdoor or harsh exposure or extreme performance characteristics	3.5	0.42

Affected Facility	Daily Weighted Average VOC Emission Limitation	
	Lbs. per Gal. of Coating as applied (minus water and exempt solvent)	Kgs. per Liter of Coating as applied (minus water and exempt solvent)
No or infrequent color change, or small number of colors applied:		
a. Powder Coating	0.4	0.05
b. Other	3.0	0.36
These limits do not apply to operations covered in 1-7 or 10 herein or exterior coating of fully assembled aircraft, auto refinishing, and auto customizing topcoating (processing less than 35 vehicles per day).		
9. Factory Surface Coating of Flat Wood Paneling with VOC Emissions Greater Than 15 Pounds Per Day Before Controls		
All Inks, Coatings, and Adhesives	2.1	0.25
10. Surface Coating for Marine Vessels and Oilfield Tubulars and Ancillary Oilfield Equipment		
a. Except as otherwise provided in this Section, a person shall not apply a marine coating with a VOC content in excess of the following limits:		
Baked Coatings	3.5	0.42
Air-Dried Single-Component Alkyd or Vinyl Flat or Semi Gloss Finish Coatings	3.5	0.42
Two Component Coatings	3.5	0.42
b. Except for the parishes of Ascension, Calcasieu, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge, in which the VOC limitations in Subparagraph C.10.a of this Section may not be exceeded, specialty marine coatings and coatings on oilfield tubulars and ancillary oilfield equipment with a VOC content not in excess of the following limits may be applied:		
Heat Resistant	3.5	0.42
Metallic Heat Resistant	4.42	0.53
High Temperature (Fed. Spec. TT-P-28)	5.41	0.65
Pre-Treatment Wash Primer	6.5	0.78
Underwater Weapon	3.5	0.42
Elastomeric Adhesives With 15 Percent Weight Natural or Synthetic Rubber	6.08	0.73
Solvent-Based Inorganic Zinc Primer	5.41	0.65
Pre-Construction and Interior Primer	3.5	0.42
Exterior Epoxy Primer	3.5	0.42
Navigational Aids	3.5	0.42
Sealant for Wire-Sprayed Aluminum	5.4	0.648
Special Marking	4.08	0.49
Tack Coat (Epoxies)	5.08	0.61
Low Activation Interior Coating	4.08	0.49
Repair and Maintenance Thermoplastic	5.41	0.65
Extreme High Gloss Coating	4.08	0.49
Antenna Coating	4.42	0.53
Antifoulant	3.66	0.44
High Gloss Alkyd	3.5	0.42
Anchor Chain Asphalt Varnish (Fed. Spec. TT-V-51)	5.2	0.62
Wood Spar Varnish (Fed. Spec. TT-V-119)	4.1	0.492
Dull Black Finish Coating (DOD-P-15146)	3.7	0.444
Tank Coatings (DOD-P-23236)	3.5	0.42
Potable Water Tank Coating (DOD-P-23236)	3.7	0.444
Flight Deck Markings (DOD-C-24667)	4.2	0.504
Vinyl Acrylic Top Coats	5.4	0.648

Affected Facility	Daily Weighted Average VOC Emission Limitation	
	Lbs. per Gal. of Coating as applied (minus water and exempt solvent)	Kgs. per Liter of Coating as applied (minus water and exempt solvent)
Antifoulant Applied to Aluminum Hulls	4.5	0.55
11. Paper, Film, Foil, Pressure Sensitive Tape, and Label Surface Coating	Daily Weighted Average VOC Emission Limitation	
	kg VOC/kg Solids (lb VOC/lb Solids)	kg VOC/kg Coating (lb VOC/lb Coating)
Paper, Film, and Foil	0.40	0.08
Pressure Sensitive Tape and Label	0.20	0.067

#### D. Control Techniques

1. If add-on controls such as incinerators or vapor recovery systems are used to comply with the emission limitation requirements, in terms of pounds per gallon of solids as applied (determined in accordance with Paragraph D.8 of this Section), the volatile organic compound capture and abatement system shall be at least 80 percent efficient overall (90 percent for factory surface coating of flat wood paneling). All surface coating facilities shall submit to the Office of Environmental Services, for approval, design data for each capture system and emission control device that is proposed for use. The effectiveness of the capture system (i.e., capture efficiency) shall be determined using the procedure specified in Paragraph E.6 of this Section.

2. If a person wishes to use low solvent technology to meet any of the emission limits specified in Subsection C of this Section and if the technology to be used for any particular application is not now proven but is expected to be proven in a reasonable length of time, he may request a compliance date extension from the administrative authority\*. Compliance date extensions will require progress reports every 90 days, or as directed, to show reasonable progress, as determined by the administrative authority, toward technology to meet the specified emission limitation.

3. ...

4. Compliance with the alternative emission limit established in Paragraph C.5 of this Section of 15.1 pounds of VOC per gallon of solids deposited shall be determined in accordance with EPA's "Protocol for Determining the Daily Volatile Organic Compound Emission Rate of Automobile and Light Duty Truck Topcoat Operations", EPA 450/3-88-018, December, 1988.

5. ...

6. Surface coating facilities on any property in Ascension, Calcasieu, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge parishes that when controlled have a potential to emit, at maximum production, a combined weight (total from the property) of VOCs less than 10 tons in any consecutive 12 calendar months are exempt from the provisions of Subsection C of this Section. Surface coating facilities on any property in parishes other than Ascension, Calcasieu, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge that when uncontrolled have a potential to emit a combined

weight of VOCs less than 100 pounds (45 kilograms) in any consecutive 24-hour period are exempt from the provisions of Subsection C of this Section. Any surface coating facility with VOC emissions of less than or equal to 15 pounds (6.8 kilograms) per day is exempt from the provisions of Paragraphs C.1, 8, and 11 of this Section.

7. Soldering and surface coating facilities or portions thereof, may request from the administrative authority\* exemption from the requirements of Subsection C of this Section if all of the following conditions are met:

7.a. - 9....

E. Testing. Compliance with Subsections A, C, and D of this Section shall be determined by applying the following test methods, as appropriate.

1. - 7. ...

F. Recordkeeping. The owner/operator of any surface coating facility shall maintain records at the facility to verify compliance with or exemption from this Section. The records shall be maintained for at least two years and shall include, but not be limited to, the following:

1. records of any testing done in accordance with Subsection E of this Section;

2. records of the installation and maintenance of monitors to accurately measure and record operational parameters of all required control devices as necessary to ensure the proper functioning of those devices in accordance with the design specifications, including but not limited to:

2.a. - 4....

G. Mandatory Work Practices for Surface Coating of Flat Wood Paneling. The owner/operator of any facility performing factory surface coating of flat wood paneling shall comply with the following mandatory work practices:

1. store all VOC coatings, thinners, and cleaning materials in closed containers;

2. minimize spills and clean up spills immediately;

3. convey any coatings, thinners, and cleaning material in closed containers or pipes; and

4. close mixing vessels containing VOC coatings and other material except when specifically in use.

H. Definitions

*Air Dried Coating*—any coating that is cured at a temperature below 90°C (194°F).

*Baked Coating*—any coating that is cured at a temperature at or above 90°C (194°F).

*Extreme High Gloss Coating*—any coating that achieves at least 95 percent reflectance on a 60° meter when tested by ASTM Method D-523.

*Heat Resistant Coating*—any coating that during normal use must withstand temperatures of at least 204°C (400°F).

*High Gloss Coating*—any coating that achieves at least 85 percent reflectance on a 60° meter when tested by ASTM Method D-523.

*High Temperature Coating*—any coating that must withstand temperatures of at least 426°C (800°F).

*Marine Coating*—any coating, except unsaturated polyester resin (fiberglass) coatings, containing volatile organic materials and applied by brush, spray, roller, or other means to ships, boats, and their appurtenances, and to buoys and oil drilling rigs intended for the marine environment.

*Metallic Heat Resistant Coating*—any coating that contains more than 5 grams of metal particles per liter as

applied and that must withstand temperatures over 80°C (175°F).

*Repair and Maintenance Thermoplastic Coating*—a resin-bearing coating in which the resin becomes pliable with the application of heat, such as vinyl, chlorinated rubber, or bituminous coatings.

I. Timing. A facility that has become subject to this regulation as a result of a revision of the regulation shall comply with the requirements of this Section as soon as practicable, but in no event later than one year from promulgation of the regulation revision.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 16:119 (February 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:654 (July 1991), LR 18:1122 (October 1992), LR 22:340 (May 1996), LR 22:1212 (December 1996), LR 23:1678 (December 1997), LR 24:23 (January 1998), LR 24:1285 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1240 (July 1999), LR 26:2453 (November 2000), LR 28:1765 (August 2002), LR 30:746 (April 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2440 (October 2005), LR 33:2086 (October 2007), LR 35:1102 (June 2009).

#### **Subchapter H. Graphic Arts**

#### **§2143. Graphic Arts (Printing) by Rotogravure, Flexographic, Offset Lithographic, Letterpress, and Flexible Package Printing Processes**

##### **A. Control Requirements**

1. After June 20, 2010, no person shall operate or allow the operation of a packaging rotogravure, publication rotogravure, or flexographic printing facility having a potential to emit 25 TPY or more of VOC in the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge; having a potential to emit 50 TPY or more of VOC in the parishes of Calcasieu and Pointe Coupee; or having a potential to emit 100 TPY or more of VOC in any other parish, unless VOC emissions are controlled by one of the methods in Subparagraphs A.1.a-d of this Section. This requirement applies to affected machines on which both surface coating and printing operations are performed. Line-by-line compliance with these emission limits or control requirements is required. Any cross-line averaging or bubbling must receive approval from the administrative authority\*. Once a facility is subject to the provisions of this Section, it remains so regardless of future variations in production.

a. The solvent fraction of ink, as it is applied to the substrate, less exempt solvent, shall contain 25 volume percent or less of organic solvent and 75 volume percent or more of water. Also acceptable as an alternative limit is ink containing no more than 0.5 pounds of volatile organic compounds per pound of solids. Exempt solvents are those compounds listed in LAC 33:III.2117.

b. A volatile organic compound adsorption or incineration system shall have at least 95 percent (by weight) control efficiency across the control device, which can be demonstrated to have an overall capture and abatement reduction of at least 85 percent.

c. The ink as it is applied to the substrate, less water and exempt solvent, shall contain 60 percent by volume or more of nonvolatile material.

d. Another control method approved by the administrative authority\* may be employed.

2. After June 20, 2010, no person shall operate or allow the operation of a flexible package printing facility having a potential to emit 25 TPY or more of VOC in the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge; having a potential to emit 50 TPY or more of VOC in the parishes of Calcasieu and Pointe Coupee; or having a potential to emit 100 TPY or more of VOC in any other parish, unless VOC emissions are controlled to the applicable control efficiency specified in Subparagraphs A.2.a-d of this Section. Once a piece of equipment is subject to the provisions of this Section, it remains so regardless of future variations in production or transfers to different locations.

a. A press that was first installed prior to March 14, 1995, and that is controlled by an add-on air pollution control device (APCD) whose first installation was prior to December 20, 1987, shall have 65 percent control efficiency.

b. A press that was first installed prior to March 14, 1995, and that is controlled by an add-on APCD whose first installation was on or after December 20, 1987, shall have 70 percent control efficiency.

c. A press that was first installed on or after March 14, 1995, and that is controlled by an APCD whose first installation was prior to December 20, 1987, shall have 75 percent control efficiency.

d. A press that was first installed on or after March 14, 1995, and that is controlled by an add-on APCD whose first installation was on or after December 20, 1987, shall have 80 percent control efficiency.

e. As an alternative to Subparagraph A.2.a, b, c, or d, a facility shall meet the average VOC content limit on a single press of 0.8 kg VOC/kg solids applied or 0.16 kg VOC/kg materials applied.

3. After June 20, 2010, no person shall operate or allow the operation of an offset lithographic or letterpress printing facility having a potential to emit 25 TPY or more of VOC in the parish of Ascension, East Baton Rouge, Iberville, Livingston, or West Baton Rouge; having a potential to emit 50 TPY or more of VOC in the parish of Calcasieu or Pointe Coupee; or having a potential to emit 100 TPY or more of VOC in any other parish, unless VOC emissions are controlled by one of the methods in Subparagraphs A.3.a-c of this Section. Once a facility is subject to the provisions of this Section, it remains so regardless of future variations in production. Determination of potential to emit, for the purposes of applicability, shall be made without respect to any VOC control device.

a. Control for heatset web offset lithographic processes, letterpress dryers, and the volatilization of inks in a letterpress dryer shall be accomplished by:

i. a control device with at least 90 percent control efficiency for control devices installed prior to June 20, 2009. The installation date does not change if the control device is later used to control a new or different press;

ii a control device with at least 95 percent control efficiency for control devices installed on or after June 20, 2009; or

iii a control device that limits the control device outlet concentration to 20 ppmv or less as hexane on a dry basis.

b. Control for offset lithographic fountain solution emitting more than 15 pounds per day shall be accomplished as follows:

i. heatset printing—limit the amount of alcohol by weight to 1.6 percent or less as applied;

ii. sheet-fed printing—limit the amount of alcohol by weight to 5 percent or less as applied. Sheet-fed presses with sheet size of 11 x 17 inches or smaller or any press with a total fountain solution reservoir of less than 1 gallon are exempt;

iii. coldset printing—limit the amount of alcohol by weight to 5 percent or less as applied.

c. Another control method approved by the administrative authority\* may be employed.

4. Control for cleaning materials for those facilities where actual emissions from lithographic and letterpress printing operations are greater than 15 pounds per day (before consideration of controls) shall be accomplished by one of the following methods.

a. Cleaning materials shall contain a VOC composite with a vapor pressure of less than 10 mm Hg (0.19 psi) at 20°C or contain less than 70 percent VOC by weight.

b. Cleaning materials and used shop towels shall be kept in closed containers except when actually in use.

c. For blanket washing, roller washing, plate cleaners, metering roller cleaners, impression cylinder cleaners, rubber rejuvenators, and other cleaners used for cleaning a press or press parts, or to remove dried ink around a press, any amount greater than 110 gallons of cleaning materials per year shall meet either the low VOC composite vapor pressure requirement or the lower VOC requirement.

5. Control for cleaning materials for those facilities where actual emissions from flexible package printing operations are greater than 15 pounds per day (before consideration of controls) shall be accomplished by one of the following methods.

a. Cleaning materials and used shop towels shall be kept in closed containers except when actually in use.

b. Cleaning materials shall be conveyed from one location to another in closed containers or pipes.

6. Control for cleaning materials for those facilities where actual emissions from printing operations are greater than 15 pounds per day (before consideration of controls) shall be accomplished by one of the following methods.

a. Cleaning materials and used shop towels shall be kept in closed containers except when actually in use.

b. For blanket washing, roller washing, plate cleaners, metering roller cleaners, impression cylinder cleaners, rubber rejuvenators, and other cleaners used for cleaning a press or press parts, or to remove dried ink around a press, any amount greater than 110 gallons of cleaning materials per year shall meet either the low VOC composite vapor pressure requirement or the lower VOC requirement.

#### B. Exemptions

1. For those facilities where actual emissions from packaging rotogravure and publication rotogravure printing operations are greater than 15 pounds per day (before consideration of controls) and where the potential to emit is

less than 25 TPY of VOC on a per press basis before controls, only the cleaning materials control requirements in Paragraph A.6 of this Section are applicable.

2. The following equipment or processes are exempt from meeting the requirements of Paragraph A.6 of this Section:

a. heatset web offset lithographic printing operations and heatset web letterpress printing operations with the potential to emit from the dryer, prior to controls, an amount equal to or less than 25 tons VOC (petroleum ink oil) per year, provided that an enforceable limit on potential emissions is obtained to keep an individual heatset press below the 25 TPY potential to emit threshold;

b. heatset presses used for book printing and presses with a maximum web width of less than or equal to 22 inches; and

c. operations with emissions from sheet-fed or coldset webinks, sheet-fed or coldset varnishes, waterborne coatings, and radiation cured materials.

C. - E. ...

F. Operating, Monitoring, and Maintenance Procedures. Operating, monitoring, and maintenance procedures for the facilities and equipment subject to the requirements of this Section shall be incorporated into the housekeeping plan required by LAC 33:III.2113.A.4.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:964 (November 1990), LR 18:1123 (October 1992), LR 22:1212 (December 1996), LR 24:25 (January 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1796 (October 1999), LR 28:1765 (August 2002), LR 30:746 (April 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 34:1892 (September 2008), LR 35:11074 (June 2009).

Herman Robinson, CPM  
Executive Counsel

0906#015

## RULE

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

Incorporation by Reference for 2008  
(LAC 33:I.3931; III.506, 507, 2160, 3003, 5116, 5122, 5311, and 5901; V.3099; IX.2301, 4901, and 4903; and XV.1599) (MM011ft)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Environmental Quality regulations, LAC 33:I.3931; III.506, 507, 2160, 3003, 5116, 5122, 5311, and 5901; V.3099; IX.2301, 4901, and 4903; and XV.1599 (Log #MM011ft).

This rule is identical to federal regulations found in 10 CFR 71, App. A, 1/1/2008; 40 CFR 51, App. M, 60-61, 63, 68, 70.6(a), 117.3, 136, 266, App. I-IX and XI-XIII, 302.4, 302.6(e), 355.40(a)(2)(vii), 401, and 405-471, 7/1/2008; and

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subsequent revisions to 40 CFR 60 and 63 in the *Federal Register* (see rule text), 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).

The date of publication for the Code of Federal Regulations (CFR) volumes as contained in the various parts of the Title 33, Environmental Quality, regulations is being updated to reflect that the CFR volumes incorporated by reference into the state regulations are the volumes published in 2008. This rule incorporates by reference (IBR) into LAC 33:I, III, V, IX, and XV the corresponding federal reportable quantity list of hazardous substances in 40 CFR 117.3 and 302.4, July 1, 2008; administrative reporting exemptions for certain air releases of NO<sub>x</sub> in 40 CFR 302.6(e) and 355.40(a)(2)(vii), July 1, 2008; Capture Efficiency Test Procedures in 40 CFR Part 51, Appendix M, July 1, 2008; Standards of Performance for New Stationary Sources in 40 CFR Part 60, July 1, 2008; National Emission Standards for Hazardous Air Pollutants (NESHAP) in 40 CFR Part 61, July 1, 2008; NESHAP for Source Categories in 40 CFR Part 63, July 1, 2008; Chemical Accident Prevention and Minimization of Consequences in 40 CFR Part 68, July 1, 2008; Part 70 Operating Permits Program in 40 CFR 70.6(a), July 1, 2008; Federal SO<sub>2</sub> Model Rule in 40 CFR Part 96, July 1, 2008; hazardous waste regulations in 40 CFR Part 266, Appendices I-IX and XI-XIII, July 1, 2008; National Pollutant Discharge Elimination System regulations in 40 CFR Parts 136, 401, 405-471, July 1, 2008; and radiation regulations in 10 CFR Part 71, Appendix A, January 1, 2008. Also incorporated are subsequent revisions to 40 CFR Parts 60 and 63 promulgated in the *Federal Register*. In order for Louisiana to maintain equivalency with federal regulations, the most current CFR volumes must be adopted into the LAC. This rulemaking is necessary to maintain delegation, authorization, etc., granted to Louisiana by EPA. This incorporation by reference rule will keep Louisiana's regulations current with their federal counterparts. The basis and rationale for this rule are to mirror the federal regulations in order to maintain equivalency. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

## Title 33

### ENVIRONMENTAL QUALITY

#### Part I. Office of the Secretary

##### Subpart 2. Notification

#### Chapter 39. Notification Regulations and Procedures for Unauthorized Discharges

##### Subchapter E. Reportable Quantities for Notification of Unauthorized Discharges

#### §3931. Reportable Quantity List for Pollutants

##### A. Incorporation by Reference of Federal Regulations

1. Except as provided in Subsection B of this Section, the following federal reportable quantity lists are incorporated by reference:

a. 40 CFR 117.3, July 1, 2008, Table 117.3—Reportable Quantities of Hazardous Substances

Designated Pursuant to Section 311 of the Clean Water Act; and

b. 40 CFR 302.4, July 1, 2008, Table 302.4—List of Hazardous Substances and Reportable Quantities.

2. Notification Requirements. The following administrative reporting exemptions are hereby incorporated by reference:

a. 40 CFR 302.6(e), July 1, 2008—Notification Requirements; and

b. 40 CFR 355.40(a)(2)(vii), July 1, 2008—Emergency Release Notification.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), 2060(H), 2076(D), 2183(I), 2194(C), 2204(A), and 2373(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), LR 20:183 (February 1994), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:944 (September 1995), LR 22:341 (May 1996), amended by the Office of the Secretary, LR 24:1288 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 29:698 (May 2003), LR 30:751 (April 2004), LR 30:1669 (August 2004), amended by the Office of Environmental Assessment, LR 31:919 (April 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:603 (April 2006), LR 32:2248 (December 2006), LR 33:640 (April 2007), LR 33:2628 (December 2007), LR 34:69 (January 2008), LR 34:866 (May 2008), repromulgated LR 34:981 (June 2008), amended LR 35:1106 (June 2009).

### Part III. Air

#### Chapter 5. Permit Procedures

##### §506. Clean Air Interstate Rule Requirements

A. - B.4 ...

C. Annual Sulfur Dioxide. Except as specified in this Section, The Federal SO<sub>2</sub> Model Rule, published in the *Code of Federal Regulation* at 40 CFR Part 96, July 1, 2008, is hereby incorporated by reference, except for Subpart III—CAIR SO<sub>2</sub> Opt-in Units and all references to opt-in units.

D. - E. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 32:1597 (September 2006), amended LR 33:1622 (August 2007), LR 33:2083 (October 2007), LR 34:978 (June 2008), LR 35:1107 (June 2009).

##### §507. Part 70 Operating Permits Program

A. - B.1. ...

2. No Part 70 source may operate after the time that the owner or operator of such source is required to submit a permit application under Subsection C of this Section, unless an application has been submitted by the submittal deadline and such application provides information addressing all applicable sections of the application form and has been certified as complete in accordance with LAC 33:III.517.B.1. No Part 70 source may operate after the deadline provided for supplying additional information requested by the permitting authority under LAC 33:III.519, unless such additional information has been submitted within the time specified by the permitting authority. Permits issued to the Part 70 source under this Section shall include

the elements required by 40 CFR 70.6. The department hereby adopts and incorporates by reference the provisions of 40 CFR 70.6(a), July 1, 2008. Upon issuance of the permit, the Part 70 source shall be operated in compliance with all terms and conditions of the permit. Noncompliance with any federally applicable term or condition of the permit shall constitute a violation of the Clean Air Act and shall be grounds for enforcement action; for permit termination, revocation and reissuance, or revision; or for denial of a permit renewal application.

C. - J.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011, 2023, 2024, and 2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), LR 20:1375 (December 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2447 (November 2000), LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 29:698 (May 2003), LR 30:1008 (May 2004), amended by the Office of Environmental Assessment, LR 31:1061 (May 2005), LR 31:1568 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2437 (October 2005), LR 32:808 (May 2006), LR 33:1619 (August 2007), LR 33:2083 (October 2007), LR 33:2630 (December 2007), LR 34:1391 (July 2008), LR 35:1107 (June 2009).

#### Chapter 21. Control of Emission of Organic Compounds

##### Subchapter N. Method 43—Capture Efficiency Test Procedures

[Editor's Note: This Subchapter was moved and renumbered from Chapter 61 (December 1996).]

##### §2160. Procedures

A. Except as provided in Subsection C of this Section, the regulations at 40 CFR Part 51, Appendix M, July 1, 2008, are hereby incorporated by reference.

B. - C.2.b.iv. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:653 (July 1991), amended LR 22:1212 (December 1996), LR 23:1680 (December 1997), LR 24:1286 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:1224 (August 2001), LR 29:698 (May 2003), LR 30:1009 (May 2004), amended by the Office of Environmental Assessment, LR 31:1568 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:809 (May 2006), LR 33:1620 (August 2007), LR 34:1391 (July 2008), LR 35:1107 (June 2009).

#### Chapter 30. Standards of Performance for New Stationary Sources (NSPS)

##### Subchapter A. Incorporation by Reference

##### §3003. Incorporation by Reference of 40 Code of Federal Regulations (CFR) Part 60

A. Except for 40 CFR Part 60, Subpart AAA, and as modified in this Section, Standards of Performance for New Stationary Sources, published in the *Code of Federal Regulations* at 40 CFR Part 60, July 1, 2008, are hereby incorporated by reference as they apply to the state of Louisiana. Also incorporated by reference are the following revisions to 40 CFR Part 60: stay of effective date of Subpart Ja as promulgated on July 28, 2008, in the *Federal Register*,

73 FR 43626-43627; amendments to Subpart JJJJ as promulgated on October 8, 2008, in the *Federal Register*, 73 FR 59175-59178; and amendments to Subparts D, Da, Db, and Dc as promulgated on January 28, 2009, in the *Federal Register*, 74 FR 5072-5093.

B. - C. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 22:1212 (December 1996), amended LR 23:1681 (December 1997), LR 24:1287 (July 1998), LR 24:2238 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1239 (July 1999), LR 25:1797 (October 1999), LR 26:1607 (August 2000), LR 26:2460, 2608 (November 2000), LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 28:2179 (October 2002), LR 29:316 (March 2003), LR 29:698 (May 2003), LR 30:1009 (May 2004), amended by the Office of Environmental Assessment, LR 31:1568 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2446 (October 2005), LR 32:809 (May 2006), LR 32:1596 (September 2006), LR 33:1620 (August 2007), LR 33:2092 (October 2007), LR 33:2626 (December 2007), LR 34:1391 (July 2008), LR 35:1107 (June 2009).

**Chapter 51. Comprehensive Toxic Air Pollutant Emission Control Program**

**Subchapter B. Incorporation by Reference of 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants)**

**§5116. Incorporation by Reference of 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants)**

A. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants, published in the *Code of Federal Regulations* at 40 CFR Part 61, July 1, 2008, and specifically listed in the following table, are hereby incorporated by reference as they apply to sources in the state of Louisiana.

40 CFR Part 61	Subpart/Appendix Heading
	***
[See Prior Text in Subpart A – Appendix C]	

B. - C. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:61 (January 1997), amended LR 23:1658 (December 1997), LR 24:1278 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999), LR 25:1797 (October 1999), LR 26:2271 (October 2000), LR 27:2230 (December 2001), LR 28:995 (May 2002), LR 28:2179 (October 2002), LR 29:699 (May 2003), LR 30:1009 (May 2004), amended by the Office of Environmental Assessment, LR 31:1569 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2448 (October 2005), LR 32:809 (May 2006), LR 33:1620 (August 2007), LR 33:2094 (October 2007), LR 34:1391 (July 2008), LR 35:1108 (June 2009).

**Subchapter C. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as It Applies to Major Sources**

**§5122. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as It Applies to Major Sources**

A. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants for Source Categories, published in the *Code of Federal Regulations* at 40 CFR Part 63, July 1, 2008, are hereby incorporated by reference as they apply to major sources in the state of Louisiana. Also incorporated by reference are the following revisions to 40 CFR Part 63, applicable to major sources: withdrawal of and revision to Subpart M as promulgated on July 11, 2008, in the *Federal Register*, 73 FR 39871-39875; partial withdrawal of direct final rule and amendments to Subpart EEEE as promulgated on July 17, 2008, in the *Federal Register*, 73 FR 40977-40982; and amendments to Subpart BBBB as promulgated on July 22, 2008, in the *Federal Register*, 73 FR 42529-42532.

B. - C.3. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:61 (January 1997), amended LR 23:1659 (December 1997), LR 24:1278 (July 1998), LR 24:2240 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999), LR 25:1798 (October 1999), LR 26:690 (April 2000), LR 26:2271 (October 2000), LR 27:2230 (December 2001), LR 28:995 (May 2002), LR 28:2180 (October 2002), LR 29:699 (May 2003), LR 29:1474 (August 2003), LR 30:1010 (May 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2449 (October 2005), LR 31:3115 (December 2005), LR 32:810 (May 2006), LR 33:1620 (August 2007), LR 33:2095 (October 2007), LR 33:2677 (December 2007), LR 34:1392 (July 2008), LR 35:1108 (June 2009).

**Chapter 53. Area Sources of Toxic Air Pollutants**

**Subchapter B. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as It Applies to Area Sources**

**§5311. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as It Applies to Area Sources**

A. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants for Source Categories, published in the *Code of Federal Regulations* at 40 CFR Part 63, July 1, 2008, are hereby incorporated by reference as they apply to area sources in the state of Louisiana. Also incorporated by reference are the following revisions to 40 CFR Part 63, applicable to area sources: withdrawal of and revision to

Subpart M as promulgated on July 11, 2008, in the *Federal Register*, 73 FR 39871-39875; Subpart XXXXXX as promulgated on July 23, 2008, in the *Federal Register*, 73 FR 42977-43011; and Subpart YYYYYY as promulgated on December 23, 2008, in the *Federal Register*, 73 FR 78637-76847.

B. – C. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:63 (January 1997), amended LR 23:1660 (December 1997), LR 24:1279 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999), LR 27:2230 (December 2001), LR 28:995 (May 2002), LR 28:2180 (October 2002), LR 29:699 (May 2003), LR 30:1010 (May 2004), amended by the Office of Environmental Assessment, LR 31:1569 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2451 (October 2005), LR 32:810 (May 2006), LR 33:1620 (August 2007), LR 33:2096 (October 2007), LR 34:1392 (July 2008), LR 35:1108 (June 2009).

## **Chapter 59. Chemical Accident Prevention and Minimization of Consequences**

### **Subchapter A. General Provisions**

#### **§5901. Incorporation by Reference of Federal Regulations**

A. Except as provided in Subsection C of this Section, the department incorporates by reference 40 CFR Part 68, July 1, 2008.

B. – C.6....

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:421 (April 1994), amended LR 22:1124 (November 1996), repromulgated LR 22:1212 (December 1996), amended LR 24:652 (April 1998), LR 25:425 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:70 (January 2000), LR 26:2272 (October 2000), LR 28:463 (March 2002), LR 29:699 (May 2003), LR 30:1010 (May 2004), amended by the Office of Environmental Assessment, LR 30:2463 (November 2004), LR 31:1570 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:810 (May 2006), LR 33:1621 (August 2007), LR 34:1392 (July 2008), LR 35:1109 (June 2009).

## **Part V. Hazardous Waste and Hazardous Materials**

### **Subpart 1. Department of Environmental Quality—Hazardous Waste**

#### **Chapter 30. Hazardous Waste Burned in Boilers and Industrial Furnaces**

#### **§3099. Appendices—Appendix A, B, C, D, E, F, G, H, I, J, K, and L**

##### **Appendix A. Tier I and Tier II Feed Rate and Emissions Screening Limits For Metals**

A. 40 CFR 266, Appendix I, July 1, 2008, is hereby incorporated by reference.

##### **Appendix B. Tier I Feed Rate Screening Limits for Total Chlorine**

A. 40 CFR 266, Appendix II, July 1, 2008, is hereby incorporated by reference.

##### **Appendix C. Tier II Emission Rate Screening Limits for Free Chlorine and Hydrogen Chloride**

A. 40 CFR 266, Appendix III, July 1, 2008, is hereby incorporated by reference.

##### **Appendix D. Reference Air Concentrations**

A. 40 CFR 266, Appendix IV, July 1, 2008, is hereby incorporated by reference, except that in regulations incorporated thereby, references to 40 CFR 261, Appendix VIII and 266, Appendix V shall mean LAC 33:V.3105, Table 1 and LAC 33:V.3099.Appendix E, respectively.

##### **Appendix E. Risk-Specific Doses (10<sup>-5</sup>)**

A. 40 CFR 266, Appendix V, July 1, 2008, is hereby incorporated by reference.

##### **Appendix F. Stack Plume Rise [Estimated Plume Rise (in Meters) Based on Stack Exit Flow Rate and Gas Temperature]**

A. 40 CFR 266, Appendix VI, July 1, 2008, is hereby incorporated by reference.

##### **Appendix G. Health-Based Limits for Exclusion of Waste-Derived Residues**

A. 40 CFR 266, Appendix VII, July 1, 2008, is hereby incorporated by reference, except that in regulations incorporated thereby, 40 CFR 261, Appendix VIII, 266.112(b)(1) and (b)(2)(i), and 268.43 shall mean LAC 33:V.3105, Table 1, 3025.B.1 and B.2.a, and LAC 33:V.2299.Appendix, Table 2, respectively.

##### **Appendix H. Organic Compounds for Which Residues Must Be Analyzed**

A. 40 CFR 266, Appendix VIII, July 1, 2008, is hereby incorporated by reference.

##### **Appendix I. Methods Manual for Compliance with the BIF Regulations**

A. 40 CFR 266, Appendix IX, July 1, 2008, is hereby incorporated by reference, except as follows.

A.1. – B. ...

##### **Appendix J. Lead-Bearing Materials That May Be Processed in Exempt Lead Smelters**

A. 40 CFR 266, Appendix XI, July 1, 2008, is hereby incorporated by reference.

##### **Appendix K. Nickel or Chromium-Bearing Materials That May Be Processed in Exempt Nickel-Chromium Recovery Furnaces**

A. 40 CFR 266, Appendix XII, July 1, 2008, is hereby incorporated by reference, except that the footnote should be deleted.

##### **Appendix L. Mercury-Bearing Wastes That May Be Processed in Exempt Mercury Recovery Units**

A. 40 CFR 266, Appendix XIII, July 1, 2008, is hereby incorporated by reference, except that in regulations incorporated thereby, 40 CFR 261, Appendix VIII shall mean LAC 33:V.3105, Table 1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 22:827 (September 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:300 (March 2001), LR 27:2231 (December 2001), LR 28:996 (May 2002), LR 29:700 (May 2003), LR 30:751 (April 2004), amended by the Office of Environmental

Assessment, LR 31:919 (April 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:603 (April 2006), LR 33:640 (April 2007), LR 34:866 (May 2008), LR 35:1109 (June 2009).

## **Part IX. Water Quality**

### **Subpart 2. The Louisiana Pollutant Discharge**

#### **Elimination System (LPDES) Program**

### **Chapter 23. Definitions and General LPDES Program Requirements**

#### **§2301. General Conditions**

A. – E. ...

F. All references to the *Code of Federal Regulations* (CFR) contained in this Chapter shall refer to those regulations published in the July 1, 2008 CFR, unless otherwise noted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:199 (February 1997), LR 23:722 (June 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1467 (August 1999), LR 26:1609 (August 2000), LR 27:2231 (December 2001), LR 28:996 (May 2002), LR 29:700 (May 2003), repromulgated LR 30:230 (February 2004), LR 30:752 (April 2004), amended by the Office of Environmental Assessment, LR 31:920 (April 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:604 (April 2006), LR 33:641 (April 2007), LR 33:2365 (November 2007), LR 34:867 (May 2008), LR 35:1110 (June 2009).

### **Chapter 49. Incorporation by Reference**

#### **§4901. 40 CFR Part 136**

A. 40 CFR Part 136, Guidelines Establishing Test Procedures for the Analysis of Pollutants, July 1, 2008, in its entirety, is hereby incorporated by reference.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:958 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1467 (August 1999), LR 26:1609 (August 2000), LR 27:2231 (December 2001), LR 28:996 (May 2002), LR 29:700 (May 2003), repromulgated LR 30:232 (February 2004), amended LR 30:752 (April 2004), amended by the Office of Environmental Assessment, LR 31:920 (April 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:604 (April 2006), LR 33:641 (April 2007), LR 34:867 (May 2008), LR 35:1110 (June 2009).

#### **§4903. 40 CFR, Chapter I, Subchapter N**

A. 40 CFR Chapter I, Subchapter N, Effluent Guidelines and Standards, Parts 401 and 405-471, July 1, 2008, are hereby incorporated by reference.

B. Amendments as promulgated in the *Federal Register* to 40 CFR 412.37 and 412.46 in 73 FR 70485-70486, November 20, 2008, are hereby incorporated by reference.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:958 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1467 (August 1999), LR 26:1609 (August 2000), LR 27:2232 (December 2001), LR 28:996 (May 2002), LR 29:700 (May 2003), LR 29:1467 (August 2003), repromulgated LR 30:232 (February 2004), amended LR 30:752

(April 2004), amended by the Office of Environmental Assessment, LR 31:920 (April 2005), amended by the Office of the Secretary, Legal Affairs Division LR 32:604 (April 2006), LR 32:819 (May 2006), LR 33:641 (April 2007), LR 34:867 (May 2008), LR 35:1110 (April 2009), LR 35:1110 (June 2009).

## **Part XV. Radiation Protection**

### **Chapter 15. Transportation of Radioactive Material**

#### **§1599. Appendix—Incorporation by Reference of 10 CFR Part 71, Appendix A, Tables A-1, A-2, A-3, and A-4; Procedures for Determining A<sub>1</sub> and A<sub>2</sub> [Formerly §1517]**

A. Tables A-1, A-2, A-3, and A-4 in 10 CFR Part 71, Appendix A, January 1, 2008, are hereby incorporated by reference. These tables are used to determine the values of A<sub>1</sub> and A<sub>2</sub>, as described in Subsections B-F of this Section.

B. – F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104 and 2113.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:1270 (June 2000), amended LR 27:2233 (December 2001), LR 28:997 (May 2002), LR 29:701 (May 2003), LR 30:752 (April 2004), amended by the Office of Environmental Assessment, LR 31:920 (April 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:604 (April 2006), LR 33:641 (April 2007), LR 34:867 (May 2008), LR 34:2114 (October 2008), LR 35:1110 (June 2009).

Herman Robinson, CPM  
Executive Counsel

0906#016

## **RULE**

### **Department of Health and Hospitals Board of Medical Examiners**

Licensure and Certification; Waiver of Qualifications  
(LAC 46:XLV.315)

Pursuant to the authority vested in it by the Louisiana Medical Practice Act, R.S. 37:1261-1292, and in accordance with the applicable provisions of the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana State Board of Medical Examiners (board), has amended its rules governing Licensure and Certification of Physicians, LAC 46:XLV, Subpart 2, Chapter 3, Subchapter B, Section 315. The amendments are set forth below.

#### **Title 46**

### **PROFESSIONAL AND OCCUPATIONAL STANDARDS**

#### **Part XLV. Medical Professions**

##### **Subpart 2. Licensure and Certification**

##### **Chapter 3. Physicians**

##### **Subchapter B. Graduates of American and Canadian Medical School and Colleges**

#### **§315. Waiver of Qualifications**

A. Upon request by an applicant, supported by certification from the dean of a medical school or college within the state of Louisiana which is approved by the board, the board may, in its discretion, waive the qualifications for licensure otherwise required by §311.A.5 or 6, in favor of an applicant who has been formally appointed by and with such medical school or college to a full-time position at a rank of

assistant professor or above. The practice of such an individual shall be limited to the medical school or college for which such person has been approved by the board, and to hospitals and clinics affiliated with such medical school or college.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1271, 37:1272, 37:1274 and 37:1275.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:909 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:513 (June 1990), LR 27:837 (June 2001), LR 35:1110 (June 2009).

Robert L. Marier, M.D.  
Executive Director

0906#035

## RULE

### Department of Health and Hospitals Board of Optometry Examiners

Employment Restrictions; Continuing Education;  
Professional Conduct (LAC 46:LI.109, 301, and 501)

Notice is hereby given, in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., that the Louisiana State Board of Optometry Examiners, pursuant to authority vested in the Louisiana State Board of Optometry Examiners by the Optometry Practice Act, R.S. 37:1041-1068, has amended Title 46, Part LI by adopting the following amendments to the Rule set forth below.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part LI. Optometrists

#### Chapter 1. General Provisions

#### §109. Employment Restrictions

A. - A2.b. ...

c. Repealed.

3. an individual, unless such individual is duly licensed as an optometrist or physician in the state of Louisiana.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1048.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Optometry Examiners, LR 32:630 (April 2006), amended LR 35:1111 (June 2009).

#### Chapter 3. License

#### §301. Continuing Education

A. ...

1. Standard optometry license holders and diagnostic pharmaceutical certificate holders shall complete between January 1 and December 31 of each calendar year at least 12 hours of continuing education courses, of which a minimum of 10 hours must be obtained in a classroom setting, approved by the Louisiana State Board of Optometry Examiners.

2. License holders authorized to diagnose and treat pathology and use and prescribe therapeutic pharmaceutical agents shall complete between January 1 and December 31 of each calendar year at least 16 hours of continuing education courses, of which a minimum of 14 hours must be

obtained in a classroom setting, approved by the Louisiana State Board of Optometry Examiners, and of which at least eight classroom hours shall consist of matters related to ocular and systemic pharmacology and current diagnosis and treatment of ocular disease. Such certificate holders will be entitled to apply the CPR continuing education to their required annual continuing education, provided that such CPR continuing education shall not count toward the required eight classroom hours related to ocular and system pharmacology and current diagnosis and treatment of ocular disease, and provided further that no more than four hours of CPR continuing education may be applied to the continuing education requirement in any two calendar year periods. The eight hours of continuing education relating to ocular and systemic pharmacology and/or current diagnosis and treatment of ocular disease shall be obtained solely from the following sources:

a. - e. ...

3. All hours shall be computed on a 60 minute basis.

4. - 6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1048.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Optometry Examiners, LR 32:631 (April 2006), amended LR 35:1111 (June 2009).

#### Chapter 5. Practicing Optometry

#### §501. Professional Conduct

A. - C. ...

D. - F. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1048.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Optometry Examiners, LR 32:632 (April 2006), amended LR 35:1111 (June 2009).

Dr. James D. Sandefur, O.D.  
Secretary

0906#020

## RULE

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

Medicaid Eligibility—Louisiana Health Insurance Premium  
Payment Program (LAC 50:III.2311)

The Department of Health and Hospitals, Bureau of Health Services Financing has adopted LAC 50:III.2311 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

#### Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part III. Eligibility

#### Subpart 3. Eligibility Groups and Factors

#### Chapter 23. Eligibility Groups and Medicaid Programs

#### §2311. Louisiana Health Insurance Premium Payment Program

A. Section 1906 of Title XIX of the Social Security Act mandates that Medicaid recipients enroll and maintain their

enrollment in cost effective group health insurance plans as a condition of Medicaid eligibility if such a plan is available. In compliance with Section 1906, the department established the Group Health Insurance Premium Payment Program (GHIPP) to provide Medicaid payment of the costs associated with the enrollment of recipients in cost effective group health insurance plans. The department hereby changes the name of the GHIPP Program to the Louisiana Health Insurance Premium Payment (La HIPP) Program.

B. Medicaid recipients shall be enrolled in La HIPP when cost-effective health plans are available through the recipient's employer or a responsible party's employer-based health plan if the recipient is enrolled or eligible for such a health plan.

1. The enrollment period for the La HIPP program shall be no less than six months.

C. When coverage for eligible family members is not possible unless ineligible family members are enrolled, the Medicaid Program will pay the premiums for the enrollment of other family members when it is cost-effective.

D. The recipient or the individual acting on behalf of the recipient shall cooperate to establish the availability and cost effectiveness of group health insurance.

1. Medicaid benefits of the parent may be terminated for failure to cooperate unless good cause for non-cooperation is established. Medicaid benefits for a child shall not be terminated due to the parent's or authorized representative's failure to cooperate.

E. Continued eligibility for this program is dependent upon the individual's ongoing eligibility for Medicaid.

F. LaHIPP recipients shall be entitled to coverage of the patient responsibility amounts for services covered under the group health insurance to the extent allowed under the Medicaid State Plan and for all services that are not covered by the group health insurance but are provided for under the Medicaid State Plan and rendered by Medicaid providers.

G. The department shall be entitled to any rate refund made when the health insurance carrier determines a return of premiums to the policy holder is due because of lower than anticipated claims for any period of time in which the Department paid the premiums.

H. The Medicaid Program will make the determination whether the group health insurance plan(s) available to the recipient is cost effective.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1111 (June 2009).

Alan Levine  
Secretary

0906#070

## **RULE**

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

Refugee Medical Assistance (LAC 50:XXXI.Chapter 1)

The Department of Health and Hospitals, Bureau of Health Services Financing has adopted LAC 50:XXXI in

the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Section 412(e)(5) of the Immigration and Nationality Act, and has repealed the December 20, 1988 Rule governing Refugee Medical Assistance. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq.

## **Title 50**

### **PUBLIC HEALTH—GENERAL**

#### **Part XXXI. Refugee Medical Assistance**

#### **Chapter 1. Refugee Medical Assistance Program**

#### **§101. General Provisions**

A. The Immigration and Nationality Act of 1952, Public Law 82-414, allows states to provide medical assistance, during the one-year period after entry, to any refugee who does not qualify for assistance under a State Plan approved under Title XIX of the Social Security Act. The Refugee Medical Assistance (RMA) Program provides medical assistance to refugees and asylees in Louisiana who are not otherwise eligible for Medicaid/SCHIP coverage. Under the authority of the U.S. Department of Health and Human Services, Administration for Children and Families, the Department of Health and Hospitals hereby assumes responsibility for the administration of the RMA Program.

B. The Refugee Medical Assistance Program is a short-term, federally funded program designed to ensure that refugees receive the medical care they need while transitioning to life in the United States.

C. Refugee medical assistance is available to all individuals with the immigration status of refugee or asylee.

D. All recipients who receive refugee cash assistance through the Office of Refugee Resettlement, and who are not eligible for a regular Medicaid/SCHIP program, shall be certified for RMA.

1. Receipt or application for refugee cash assistance is not a requirement of the RMA program.

E. A refugee who has been certified in a regular Medicaid program and loses that coverage because of increased earnings from employment, and is within the eligibility time period, shall be transferred to RMA.

F. Retroactive coverage does not apply to RMA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Public Law 82-414, 8 U.S. Code 1522 (e)(5).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1112 (June 2009).

#### **§103. Eligibility Requirements**

A. Individuals who meet the following requirements may receive health care coverage through the Refugee Medical Assistance Program.

1. The individual must be a refugee or asylee who is not eligible to receive benefits through a regular Medicaid or SCHIP program.

2. Application for RMA benefits must fall within the established time limit of eight months from the date of arrival in the United States for refugees or from the date asylees are granted asylum.

3. The individual must not be enrolled as a full-time student in an institution of higher education unless it is a one-year recertification program which is part of the refugee's comprehensive resettlement plan.

4. The individual must provide the name of the sponsoring Refugee Resettlement Agency.

a. Asylees are exempt from this requirement.  
5. Applicants for refugee medical assistance must meet income and resource guidelines.

B. A newborn may receive RMA coverage if both parents meet the RMA requirements or the mother is receiving RMA when the child is born.

1. These children can receive RMA until the end of the mother's period of eligibility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Public Law 82-414, 8 U.S. Code 1522 (e)(5).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1112 (June 2009).

#### **§105. Covered Services**

A. Recipients of RMA are eligible to receive the full range of Medicaid covered services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Public Law 82-414, 8 U.S. Code 1522 (e)(5).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1113 (June 2009).

#### **§107. Certification Period**

A. Refugee medical assistance coverage begins the month of application.

B. The certification period shall not exceed eight months from the date of entry. For Afghan Special Immigrants, the certification period shall not exceed six months from the date of entry.

1. The date of entry for asylees is the date the individual is granted asylum.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Public Law 82-414, 8 U.S. Code 1522 (e)(5).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1113 (June 2009).

Alan Levine  
Secretary

0906#071

### **RULE**

#### **Department of Health and Hospitals Licensed Professional Counselors Board of Examiners**

##### **Requirements for Licensure of Licensed Marriage and Family Therapists (LAC 46:LX.Chapter 33)**

In accordance with R.S. 49:950 et seq., of the Louisiana Administrative Procedure Act, the Licensed Professional Counselors Board of Examiners has amended its existing rules and regulations (LAC 46:LX.Chapter 33) relative to the required graduate degrees and academic clinical supervision for licensure as a Licensed Marriage and Family Therapist. These revisions are necessary to clarify existing Rules.

Specifically, the Licensed Professional Counselors Board of Examiners proposes to amend §§3303, 3311, 3313 and 3315 and to repeal §§3307 and 3309 of its Rules, relative to these revisions.

## **Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS Part LX. Licensed Professional Counselors Board of Examiners**

### **Subpart 2. Professional Standards for Licensed Marriage and Family Therapists**

#### **Chapter 33. Requirements for Licensure**

##### **§3303. Definitions**

*Allied Mental Health Discipline*—Repealed.

\*\*\*

*Appropriate Graduate Degree*—Repealed.

\*\*\*

*Marriage and Family Therapist Intern or MFT Intern*—a person registered with the board who is receiving MFT approved post-graduate supervision.

*Recognized Educational Institution*—Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:155 (February 2003), amended LR 29:2784 (December 2003), LR 35:1113 (June 2009).

##### **§3307. Specific Licensing Requirements for Applications Made on or before June 30, 2004**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:155 (February 2003), amended LR 29:2785 (December 2003), repealed LR 35:1113 (June 2009).

##### **§3309. Specific Licensing Requirements for Applications Made after June 30, 2004**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:156 (February 2003), amended LR 29:2785 (December 2003), repealed LR 35:1113 (June 2009).

##### **§3311. Academic Requirements**

A. The advisory committee and board have determined that "meets the standards" as provided in RS 37:1101(12) means:

1. a master's or doctoral degree in marriage and family therapy from a program accredited by the Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE) in a regionally accredited educational institution or a certificate in marriage and family therapy from a post-graduate training institute accredited by COAMFTE; or

2. a master's or doctoral degree in marriage and family therapy or marriage and family counseling from a program accredited by the Council for Accreditation of Counseling and Related Educational Programs (CACREP) in a regionally accredited educational institution with a minimum

of 6 graduate courses in marriage and family therapy including coursework on the AAMFT Code of Ethics and a minimum of 500 supervised direct client contact hours, with a minimum of 250 hours of these 500 hours with couples and families, and a minimum of 100 hours of face-to-face supervision. The training of the supervisor must be equivalent to that of an AAMFT Approved Supervisor or AAMFT Supervisor Candidate.

B. - C.2.iii. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:156 (February 2003), amended LR 29:2785 (December 2003), LR 35:1113 (June 2009).

### §3313. Examination Requirements

A. The examination for licensure shall be the national marriage and family therapy examination as determined by the advisory committee. No other examination will be accepted.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:158 (February 2003), amended LR 35:1114 (June 2009).

### §3315. Supervision Requirements

A. General Provisions

1. Applicants who meet the degree or certification requirements must successfully complete a minimum of two years of work experience in marriage and family therapy under qualified supervision in accordance with COAMFTE supervision standards as described in this Section.

B. Definitions for Supervision

\*\*\*

*MFT Intern*—a person registered with the board who is receiving supervision from an LMFT-approved supervisor or LMFT-registered supervisor candidate.

\*\*\*

C. Supervision Requirements for Licensure

1. A registered MFT intern must complete a minimum of two years of post-graduate work experience in marriage and family therapy that includes at least 3,000 hours of clinical services to individuals, couples, or families.

1.a. - 7.e. ...

D. Qualifications of an LMFT-Approved Supervisor and an LMFT-Registered Supervisor Candidate

1. - 2. ...

3. A person who wishes to become an LMFT-approved supervisor must be a licensed marriage and family therapist and must submit a completed application that documents that he or she meets the requirements. in one of two ways.

a. The applicant may meet the requirements by meeting the following coursework, experience, and supervision of supervision requirements.

i. Coursework requirements:

(a). a one-semester graduate course in marriage and family therapy supervision from a regionally accredited institution; or

(b). an equivalent course of study consisting of a 15-hour didactic component and a 15-hour interactive

component in the study of marriage and family therapy supervision approved by the advisory committee. The interactive component must include a minimum of four persons.

ii. Experience requirements:

(a). has a minimum of two years experience as a licensed marriage and family therapist.

iii. Supervision of Supervision requirements:

(a). Thirty-six hours of supervision of supervision for marriage and family therapy must be taken from an LMFT-approved supervisor.

(b). - (c). Repealed

b. ...

4. LMFT-registered Supervisor Candidate

a. ...

i. includes documentation of a minimum of two years of experience as a licensed marriage and family therapist;

a.ii. - d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:158 (February 2003), amended LR 29:2787 (December 2003), LR 35:1114 (June 2009).

Gloria Bockrath  
Chairman

0906#046

## RULE

### Department of Insurance Office of the Commissioner

#### Regulation 33—Medicare Supplemental Insurance Minimum Standards (LAC 37:XIII.Chapter 5)

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950, et seq., has amended Regulation 33 regarding Medicare Supplemental Insurance Minimum Standards.

The National Association for Insurance Commissioners (NAIC) recently amended the NAIC model regulation on Medicare Supplemental Insurance Minimum Standards to reflect changes made under the Genetic Information Nondiscrimination Act (GINA) and the Medicare Improvement for Patients and Providers Act (MIPPA), and the Louisiana Department of Insurance is adopting these changes which affect the following Sections: LAC 37:XIII §503, §505, §510, §515, §516, §520, §521, §525, §535, §560, and §591. Sections 516, 521, and 591 are additions to the proposed regulation. Section 507 is repealed in its entirety.

Non-substantive language has been added to Sections 503, 515, 516, 520, 521, and 560 to clarify references to policies "issued for delivery on or after June 1, 2010." These technical clarifications are intended to permit the sale of Medicare policies with new benefit packages prior to June 1, 2010 provided such policies have an effective date on or after June 1, 2010. NAIC recently notified state regulators that the intent of these technical changes comports with

federal law and such changes were inadvertently omitted from revisions made to the final NAIC Medicare Supplement Insurance Minimum Standards Model Act prior to its adoption. The department is hereby adopting these technical changes accordingly.

**Title 37  
INSURANCE**

**Part XIII. Regulations**

**Chapter 5. Regulation 33—Medicare Supplement Insurance Minimum Standards**

**§503. Definitions**

A. ...

\* \* \*

*Commissioner*—the Commissioner of Insurance of the state of Louisiana.

\* \* \*

*Issuer*—insurance companies, fraternal benefit societies, health care service plans, health maintenance organizations, and any other entity authorized to deliver or issue for delivery in this state Medicare supplement policies or certificates. For purposes of §591.A.10.a. of this regulation, the term shall also include third party administrators, or any other person acting for or on behalf of such issuer.

\* \* \*

*Pre-Standardized Medicare supplement benefit Plan, Pre-Standardized benefit Plan or Pre-Standardized Plan*—a group or individual policy of Medicare supplement insurance issued prior to July 20, 1992.

*1990 Standardized Medicare supplement benefit plan, 1990 Standardized benefit Plan or 1990 plan*—a group or individual policy of Medicare supplement insurance issued on or after July 20, 1992 and with an effective date for coverage prior to June 1, 2010 and includes Medicare supplement insurance policies and certificates renewed on or after that date which are not replaced by the issuer at the request of the insured.

*2010 Standardized Medicare supplement benefit plan, 2010 Standardized benefit plan or 2010 plan*—a group or individual policy of Medicare supplement insurance issued on or after June 1, 2010.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1111 (re-designated from LSA-R.S. 22:224 pursuant to Acts 2008, No. 415, effective January 1, 2009) and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1102 (June 1999), repromulgated LR 25:1481 (August 1999), amended LR 29:2435 (November 2003), LR 31:2902 (November 2005), LR 35:1115 (June 2009).

**§505. Policy Provisions**

A. Except for permitted preexisting condition clauses as described in §510.A.1.a, §515.A.1.a, and §516.A.1.a of this regulation, no policy or certificate may be advertised, solicited or issued for delivery in this state as a Medicare supplement policy if the policy or certificate contains limitations or exclusions on coverage that are more restrictive than those of Medicare.

B. - C. ...

D.1. Subject to §§510.A.1(d), (e), and (g), and 515.A.1(d) and (e) of this regulation, a Medicare supplement policy

with benefits for outpatient prescription drugs in existence prior to January 1, 2006 shall be renewed for current policyholders who do not enroll in Part D at the option of the policyholder.

2. - 3.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1111 (re-designated from LSA-R.S. 22:224 pursuant to Acts 2008, No. 415, effective January 1, 2009) and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1102 (June 1999), repromulgated LR 25:1483 (August 1999), LR 29:2436 (November 2003), amended LR 31:2904 (November 2005), LR 35:1115 (June 2009).

**§506. Premium Increase Requirements**

A. ...

B. Medicare supplement policies and certificates shall have a notice prominently printed on the first page of the policy or certificate stating in substance that the policyholder or certificateholder will be notified at least 45 days before any premium increase.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1111 (re-designated from LSA-R.S. 22:224 pursuant to Acts 2008, No. 415, effective January 1, 2009) and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 29:2437 (November 2003), repromulgated LR 31:2904 (November 2005), amended LR 35:1115 (June 2009).

**§507. Rate Increases Requirements**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1111 (re-designated from LSA-R.S. 22:224 pursuant to Acts 2008, No. 415, effective January 1, 2009) and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 29:2437 (November 2003), repromulgated LR 31:2904 (November 2005), repealed LR 35:1115 (June 2009).

**§510. Minimum Benefit Standards for Pre-Standardized Medicare Supplement Benefit Plan Policies or Certificates Issued for Delivery Prior to July 20, 1992**

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

c. A Medicare supplement policy or certificate shall provide that benefits designed to cover cost sharing amounts under Medicare will be changed automatically to coincide with any changes in the applicable Medicare deductible, copayment, or coinsurance amounts. Premiums may be modified to correspond with such changes.

d. - e.ii.(a)...

(b). an individual Medicare supplement policy which provides only such benefits as are required to meet the minimum standards as defined in §516.A.2 of this regulation;

1.e.ii.(c). - 2.g. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1111 (re-designated from LSA-R.S. 22:224 pursuant to Acts 2008, No. 415, effective January 1, 2009) and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1103 (June 1999), repromulgated LR 25:1483 (August 1999), amended LR 29:2437 (November 2003), LR 31:2905 (November 2005), LR 35:1115 (June 2009).

**§515. Benefit Standards for 1990 Standardized Medicare Supplement Benefit Plan Policies or Certificates Issued for Delivery on or After July 20, 1992 and with an Effective Date for Coverage Prior to June 1, 2010**

A. The following standards are applicable to all Medicare supplement policies or certificates delivered or issued for delivery in this state on or after July 20, 1992 and with an effective date for coverage prior to June 1, 2010. No policy or certificate may be advertised, solicited, delivered or issued for delivery in this state as a Medicare supplement policy or certificate unless it complies with these benefit standards.

1. - 1.b ...

c. A Medicare supplement policy or certificate shall provide that benefits designed to cover cost sharing amounts under Medicare will be changed automatically to coincide with any changes in the applicable Medicare deductible, co-payment, or coinsurance amounts. Premiums may be modified to correspond with such changes.

d.-g.iv.(c). ...

h.i. If an issuer makes a written offer to the Medicare Supplement policyholders or certificateholders of one or more of its plans, to exchange during a specified period from his or her 1990 Standardized plan (as described in §520 of this regulation) to a 2010 Standardized plan (as described in §521 of this regulation), the offer and subsequent exchange shall comply with the following requirements:

ii. An issuer need not provide justification to the commissioner if the insured replaces a 1990 Standardized policy or certificate with an issue age rated 2010 Standardized policy or certificate at the insured's original issue age and duration. If an insured's policy or certificate to be replaced is priced on an issue age rate schedule at the time of such offer, the rate charged to the insured for the new exchanged policy shall recognize the policy reserve buildup, due to the pre-funding inherent in the use of an issue age rate basis, for the benefit of the insured. The method proposed to be used by an issuer must be filed with the commissioner in accordance with rate filing procedures prescribed by the commissioner.

iii. The rating class of the new policy or certificate shall be the class closest to the insured's class of the replaced coverage.

iv. An issuer may not apply new pre-existing condition limitations or a new incontestability period to the new policy for those benefits contained in the exchanged 1990 Standardized policy or certificate of the insured, but may apply pre-existing condition limitations of no more than six months to any added benefits contained in the new 2010 Standardized policy or certificate not contained in the exchanged policy.

v. The new policy or certificate shall be offered to all policyholders or certificateholders within a given plan, except where the offer or issue would be in violation of state or federal law.

2. - 5.c ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1111 (re-designated from LSA-R.S. 22:224 pursuant to Acts 2008, No. 415, effective January 1, 2009) and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1104 (June 1999), repromulgated LR 25:1484 (August 1999), amended LR 29:2438 (November 2003), LR 31:2906 (November 2005), LR 35:1116 (June 2009).

**§516. Benefit Standards for 2010 Standardized Medicare Supplement Benefit Plan Policies or Certificates Issued for Delivery with an Effective Date For Coverage on or After June 1, 2010**

A. The following standards are applicable to all Medicare supplement policies or certificates delivered or issued for delivery in this state with an effective date for coverage on or after June 1, 2010. No policy or certificate may be advertised, solicited, delivered, or issued for delivery in this state as a Medicare supplement policy or certificate unless it complies with these benefit standards. No issuer may offer any 1990 Standardized Medicare supplement benefit plan for sale on or after June 1, 2010. Benefit standards applicable to Medicare supplement policies and certificates issued with an effective date for coverage prior to June 1, 2010 remain subject to the requirements of §510, §515, §520, and §525.

1. General Standards. The following standards apply to Medicare supplement policies and certificates and are in addition to all other requirements of this regulation.

a. A Medicare supplement policy or certificate shall not exclude or limit benefits for losses incurred more than six months from the effective date of coverage because it involved a preexisting condition. The policy or certificate may not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six months before the effective date of coverage.

b. A Medicare supplement policy or certificate shall not indemnify against losses resulting from sickness on a different basis than losses resulting from accidents.

c. A Medicare supplement policy or certificate shall provide that benefits designed to cover cost sharing amounts under Medicare will be changed automatically to coincide with any changes in the applicable Medicare deductible, co-payment, or coinsurance amounts. Premiums may be modified to correspond with such changes.

d. No Medicare supplement policy or certificate shall provide for termination of coverage of a spouse solely because of the occurrence of an event specified for termination of coverage of the insured, other than the nonpayment of premium.

e. Each Medicare supplement policy shall be guaranteed renewable.

i. The issuer shall not cancel or non-renew the policy solely on the ground of health status of the individual.

ii. The issuer shall not cancel or non-renew the policy for any reason other than nonpayment of premium or material misrepresentation.

iii. If the Medicare supplement policy is terminated by the group policyholder and is not replaced as provided under §516.A.1.e.v. of this regulation, the issuer shall offer certificateholders an individual Medicare supplement policy which (at the option of the certificateholder):

(a). provides for continuation of the benefits contained in the group policy; or

(b). provides for benefits that otherwise meet the requirements of this Subsection.

iv. If an individual is a certificateholder in a group Medicare supplement policy and the individual terminates membership in the group, the issuer shall:

(a). offer the certificateholder the conversion opportunity described in §516.A.1.e.iii. of this regulation; or

(b). at the option of the group policyholder, offer the certificateholder continuation of coverage under the group policy.

v. If a group Medicare supplement policy is replaced by another group Medicare supplement policy purchased by the same policyholder, the issuer of the replacement policy shall offer coverage to all persons covered under the old group policy on its date of termination. Coverage under the new policy shall not result in any exclusion for preexisting conditions that would have been covered under the group policy being replaced.

f. Termination of a Medicare supplement policy or certificate shall be without prejudice to any continuous loss which commenced while the policy was in force, but the extension of benefits beyond the period during which the policy was in force may be conditioned upon the continuous total disability of the insured, limited to the duration of the policy benefit period, if any, or payment of the maximum benefits. Receipt of Medicare Part D benefits will not be considered in determining a continuous loss.

g.i. A Medicare supplement policy or certificate shall provide that benefits and premiums under the policy or certificate shall be suspended at the request of the policyholder or certificateholder for the period (not to exceed 24 months) in which the policyholder or certificateholder has applied for and is determined to be entitled to medical assistance under Title XIX of the Social Security Act, but only if the policyholder or certificateholder notifies the issuer of the policy or certificate within 90 days after the date the individual becomes entitled to assistance.

ii. If suspension occurs and if the policyholder or certificateholder loses entitlement to medical assistance, the policy or certificate shall be automatically reinstated (effective as of the date of termination of entitlement) as of the termination of entitlement if the policyholder or certificateholder provides notice of loss of entitlement within ninety (90) days after the date of loss and pays the premium attributable to the period, effective as of the date of termination of entitlement.

iii. Each Medicare supplement policy shall provide that benefits and premiums under the policy shall be suspended (for any period that may be provided by federal regulation) at the request of the policyholder if the policyholder is entitled to benefits under Section 226 (b) of the Social Security Act and is covered under a group health plan (as defined in Section 1862 (b)(1)(A)(v) of the Social Security Act). If suspension occurs and if the policyholder or certificateholder loses coverage under the group health plan, the policy shall be automatically reinstated (effective as of the date of loss of coverage) if the policyholder provides notice of loss of coverage within 90 days after the date of the loss.

iv. Reinstitution of coverages as described in Subparagraphs (ii) and (iii):

(a). shall not provide for any waiting period with respect to treatment of preexisting conditions;

(b). shall provide for resumption of coverage that is substantially equivalent to coverage in effect before the date of suspension; and

(c). shall provide for classification of premiums on terms at least as favorable to the policyholder or certificateholder as the premium classification terms that would have applied to the policyholder or certificateholder had the coverage not been suspended.

2. Standards for Basic (Core) Benefits Common to Medicare Supplement Insurance Benefit Plans A, B, C, D, F, F with High Deductible, G, M and N. Every issuer of Medicare supplement insurance benefit plans shall make available a policy or certificate including only the following basic "core" package of benefits to each prospective insured. An issuer may make available to prospective insureds any of the other Medicare Supplement Insurance Benefit Plans in addition to the basic core package, but not in lieu of it.

a. Coverage of Part A Medicare eligible expenses for hospitalization to the extent not covered by Medicare from the sixty-first through the ninetieth day in any Medicare benefit period;

b. Coverage of Part A Medicare eligible expenses incurred for hospitalization to the extent not covered by Medicare for each Medicare lifetime inpatient reserve day used;

c. Upon exhaustion of the Medicare hospital inpatient coverage, including the lifetime reserve days, coverage of 100 percent of the Medicare Part A eligible expenses for hospitalization paid at the applicable prospective payment system (PPS) rate, or other appropriate Medicare standard of payment, subject to a lifetime maximum benefit of an additional 365 days. The provider shall accept the issuer's payment as payment in full and may not bill the insured for any balance;

d. Coverage under Medicare Parts A and B for the reasonable cost of the first 3 pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations) unless replaced in accordance with federal regulations;

e. Coverage for the coinsurance amount, or in the case of hospital outpatient department services paid under a prospective payment system, the copayment amount, of Medicare eligible expenses under Part B regardless of hospital confinement, subject to the Medicare Part B deductible;

f. Hospice Care: Coverage of cost sharing for all Part A Medicare eligible hospice care and respite care expenses.

3. Standards for Additional Benefits. The following additional benefits shall be included in Medicare supplement benefit Plans B, C, D, F, F with High Deductible, G, M, and N as provided by §521 of this regulation.

a. Medicare Part A Deductible: Coverage for 100 percent of the Medicare Part A inpatient hospital deductible amount per benefit period.

b. Medicare Part A Deductible: Coverage for 50 percent of the Medicare Part A inpatient hospital deductible amount per benefit period.

c. Skilled Nursing Facility Care: Coverage for the actual billed charges up to the coinsurance amount from the twenty-first day through the one hundredth day in a Medicare benefit period for post-hospital skilled nursing facility care eligible under Medicare Part A.

d. Medicare Part B Deductible: Coverage for 100 percent of the Medicare Part B deductible amount per calendar year regardless of hospital confinement.

e. One Hundred Percent of the Medicare Part B Excess Charges: Coverage for all of the difference between the actual Medicare Part B charges as billed, not to exceed any charge limitation established by the Medicare program or state law, and the Medicare-approved Part B charge.

f. Medically Necessary Emergency Care in a Foreign Country: Coverage to the extent not covered by Medicare for 80 percent of the billed charges for Medicare-eligible expenses for medically necessary emergency hospital, physician and medical care received in a foreign country, which care would have been covered by Medicare if provided in the United States and which care began during the first 60 consecutive days of each trip outside the United States, subject to a calendar year deductible of \$250, and a lifetime maximum benefit of \$50,000. For purposes of this benefit, *emergency care* shall mean care needed immediately because of an injury or an illness of sudden and unexpected onset.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1111 (re-designated from LSA-R.S. 22:224 pursuant to Acts 2008, No. 415, effective January 1, 2009) and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 35:1116 (June 2009).

**§520. Standard Medicare Supplement Benefit Plans for 1990 Standardized Medicare Supplement Benefit Plan Policies or Certificates Issued for Delivery on or After July 20, 1992 and with an Effective Date for Coverage Prior to June 1, 2010**

Editor's Note: This Section is being repromulgated to change the Section name only.

A. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:224 and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1106 (June 1999), repromulgated LR 25:1487 (August 1999), LR 29:2440 (November 2003), amended LR 31:2909 (November 2005), repromulgated LR 35:1118 (June 2009).

**§521. Standard Medicare Supplement Benefit Plans for 2010 Standardized Medicare Supplement Benefit Plan Policies or Certificates Issued for Delivery with an Effective Date for Coverage on or After June 1, 2010**

A. The following standards are applicable to all Medicare supplement policies or certificates delivered or issued for delivery in this state with an effective date for coverage on or after June 1, 2010. No policy or certificate may be advertised, solicited, delivered or issued for delivery in this state as a Medicare supplement policy or certificate unless it complies with these benefit plan standards. Benefit

plan standards applicable to Medicare supplement policies and certificates issued with an effective date for coverage before June 1, 2010 remain subject to the requirements of §510, §515, §520, and §525.

1.a. An issuer shall make available to each prospective policyholder and certificateholder a policy form or certificate form containing only the basic (core) benefits, as defined in §516.A.2 of this regulation.

b. If an issuer makes available any of the additional benefits described in §516.A.3, or offers standardized benefit Plans K or L (as described §521.A.5.h and i of this regulation), then the issuer shall make available to each prospective policyholder and certificateholder, in addition to a policy form or certificate form with only the basic (core) benefits as described in Subsection A.1.a. above, a policy form or certificate form containing either standardized benefit Plan C (as described in §521.A.5.c. of this regulation) or standardized benefit Plan F (as described in §521.A.5.e. of this regulation).

2. No groups, packages or combinations of Medicare supplement benefits other than those listed in this Section shall be offered for sale in this state, except as may be permitted in §521.A.6. and in §525 of this regulation.

3. Benefit plans shall be uniform in structure, language, designation and format to the standard benefit plans listed in this Subsection and conform to the definitions in §503 of this regulation. Each benefit shall be structured in accordance with the format provided in §516.A.2 and §516.A.3 of this regulation; or, in the case of plans K or L, in §521.A.5.h or i of this regulation and list the benefits in the order shown. For purposes of this Section, "structure, language, and format" means style, arrangement and overall content of a benefit.

4. In addition to the benefit plan designations required in §521.A.3 of this Section, an issuer may use other designations to the extent permitted by law.

5. Make-up of 2010 Standardized Benefit Plans:

a. Standardized Medicare supplement benefit Plan A shall include only the following: The basic (core) benefits as defined in §516.A.2. of this regulation.

b. Standardized Medicare supplement benefit Plan B shall include only the following: The basic (core) benefit as defined in §516.A.2. of this regulation, plus 100 percent of the Medicare Part A deductible as defined in §516.A.3.a. of this regulation.

c. Standardized Medicare supplement benefit Plan C shall include only the following: The basic (core) benefit as defined in §516.A.2. of this regulation, plus 100 percent of the Medicare Part A deductible, skilled nursing facility care, 100 percent of the Medicare Part B deductible, and medically necessary emergency care in a foreign country as defined in §516.A.3.a, c, d, and f of this regulation, respectively.

d. Standardized Medicare supplement benefit Plan D shall include only the following: The basic (core) benefit (as defined in §516.A.2 of this regulation), plus 100 percent of the Medicare Part A deductible, skilled nursing facility care, and medically necessary emergency care in a foreign country as defined in §516.A.3.a, c, and f of this regulation, respectively.

e. Standardized Medicare supplement regular Plan F shall include only the following: The basic (core) benefit

as defined in §516.A.2 of this regulation, plus 100 percent of the Medicare Part A deductible, the skilled nursing facility care, 100 percent of the Medicare Part B deductible, 100 percent of the Medicare Part B excess charges, and medically necessary emergency care in a foreign country as defined in §516.A.3.a, c, d, e, and f, respectively.

f. Standardized Medicare supplement Plan F With High Deductible shall include only the following: 100 percent of covered expenses following the payment of the annual deductible set forth in Subparagraph ii.

i. The basic (core) benefit as defined in §516.A.2 of this regulation, plus 100 percent of the Medicare Part A deductible, skilled nursing facility care, 100 percent of the Medicare Part B deductible, 100 percent of the Medicare Part B excess charges, and medically necessary emergency care in a foreign country as defined in §516.A.3.a, c, d, e, and f of this regulation, respectively.

ii. The annual deductible in Plan F With High Deductible shall consist of out-of-pocket expenses, other than premiums, for services covered by regular Plan F, and shall be in addition to any other specific benefit deductibles. The basis for the deductible shall be \$1,500 and shall be adjusted annually from 1999 by the Secretary of the U.S. Department of Health and Human Services to reflect the change in the Consumer Price Index for all urban consumers for the 12-month period ending with August of the preceding year, and rounded to the nearest multiple of \$10.

g. Standardized Medicare supplement benefit Plan G shall include only the following: The basic (core) benefit as defined in §516.A.2 of this regulation, plus 100 percent of the Medicare Part A deductible, skilled nursing facility care, 100 percent of the Medicare Part B excess charges, and medically necessary emergency care in a foreign country as defined in §516.A.3.a, c, e, and f, respectively.

h. Standardized Medicare supplement Plan K is mandated by The Medicare Prescription Drug, Improvement and Modernization Act of 2003, and shall include only the following:

i. Part A Hospital Coinsurance Sixty-first through the Ninetieth Day: Coverage of 100 percent of the Part A hospital coinsurance amount for each day used from the sixty-first through the ninetyth day in any Medicare benefit period;

ii. Part A Hospital Coinsurance, Ninety-first through the One Hundredth Fiftieth Day: Coverage of 100 percent of the Part A hospital coinsurance amount for each Medicare lifetime inpatient reserve day used from the ninety-first through the one hundred fiftieth day in any Medicare benefit period;

iii. Part A Hospitalization After One Hundred Fifty Days: Upon exhaustion of the Medicare hospital inpatient coverage, including the lifetime reserve days, coverage of 100 percent of the Medicare Part A eligible expenses for hospitalization paid at the applicable prospective payment system (PPS) rate, or other appropriate Medicare standard of payment, subject to a lifetime maximum benefit of an additional 365 days. The provider shall accept the issuer's payment as payment in full and may not bill the insured for any balance;

iv. Medicare Part A Deductible: Coverage for 50 percent of the Medicare Part A inpatient hospital deductible

amount per benefit period until the out-of-pocket limitation is met as described in Subparagraph x.;

v. Skilled Nursing Facility Care: Coverage for 50 percent of the coinsurance amount for each day used from the twenty-first day through the one hundredth day in a Medicare benefit period for post-hospital skilled nursing facility care eligible under Medicare Part A until the out-of-pocket limitation is met as described in Subparagraph x.;

vi. Hospice Care: Coverage for 50 percent of cost sharing for all Part A Medicare eligible expenses and respite care until the out-of-pocket limitation is met as described in Subparagraph x.;

vii. Blood: Coverage for 50 percent, under Medicare Part A or B, of the reasonable cost of the first 3 pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations) unless replaced in accordance with federal regulations until the out-of-pocket limitation is met as described in Subparagraph x.;

viii. Part B Cost Sharing: Except for coverage provided in Subparagraph (ix), coverage for 50 percent of the cost sharing otherwise applicable under Medicare Part B after the policyholder pays the Part B deductible until the out-of-pocket limitation is met as described in Subparagraph x.;

ix. Part B Preventive Services: Coverage of 100 percent of the cost sharing for Medicare Part B preventive services after the policyholder pays the Part B deductible; and

x. Cost Sharing After Out-of-Pocket Limits: Coverage of 100 percent of all cost sharing under Medicare Parts A and B for the balance of the calendar year after the individual has reached the out-of-pocket limitation on annual expenditures under Medicare Parts A and B of \$4000 in 2006, indexed each year by the appropriate inflation adjustment specified by the Secretary of the U.S. Department of Health and Human Services.

i. Standardized Medicare supplement Plan L is mandated by The Medicare Prescription Drug, Improvement and Modernization Act of 2003, and shall include only the following:

i. the benefits described in Paragraphs §521.A.5.h.i., ii, iii and ix;

ii. the benefits described in Paragraphs §521.A.5.h.iv., v, vi, vii and viii, but substituting 75 percent for 50 percent; and

iii. the benefit described in Paragraph §521.A.5.h.x, but substituting \$2000 for \$4000.

j. Standardized Medicare supplement Plan M shall include only the following: The basic (core) benefit as defined in §516.A.2 of this regulation, plus 50 percent of the Medicare Part A deductible, skilled nursing facility care, and medically necessary emergency care in a foreign country as defined in §516.A.3.b, c and f of this regulation, respectively.

k. Standardized Medicare supplement Plan N shall include only the following: The basic (core) benefit as defined in §516.A.2 of this regulation, plus 100 percent of the Medicare Part A deductible, skilled nursing facility care, and medically necessary emergency care in a foreign country as defined in §516.A.3.a, c and f. of this regulation, respectively, with co-payments in the following amounts:

i. the lesser of \$20 or the Medicare Part B coinsurance or co-payment for each covered health care provider office visit (including visits to medical specialists); and

ii. the lesser of \$50 or the Medicare Part B coinsurance or co-payment for each covered emergency room visit, however, this copayment shall be waived if the insured is admitted to any hospital and the emergency visit is subsequently covered as a Medicare Part A expense.

6. New or Innovative Benefits: An issuer may, with the prior approval of the commissioner, offer policies or certificates with new or innovative benefits, in addition to the standardized benefits provided in a policy or certificate that otherwise complies with the applicable standards. The new or innovative benefits shall include only benefits that are appropriate to Medicare supplement insurance, are new or innovative, are not otherwise available, and are cost-effective. Approval of new or innovative benefits must not adversely impact the goal of Medicare supplement simplification. New or innovative benefits shall not include an outpatient prescription drug benefit. New or innovative benefits shall not be used to change or reduce benefits, including a change of any cost-sharing provision, in any standardized plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1111 (re-designated from LSA-R.S. 22:224 pursuant to Acts 2008, No. 415, effective January 1, 2009) and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR:35:1118 (June 2009).

#### **§525. Medicare Select Policies and Certificates**

A.1. - E.1.b.ii. ...

c. there are written agreements and/or contracts with network providers describing specific responsibilities;

d. ...

e. in the case of covered services that are subject to a restricted network provision and are provided on a prepaid basis, there are written agreements and/or contracts with network providers prohibiting the providers from billing or otherwise seeking reimbursement from or recourse against any individual insured under a Medicare select policy or certificate. This Paragraph shall not apply to supplemental charges or coinsurance amounts as stated in the Medicare select policy or certificate;

2. ...

3. a detailed description and the method utilized by the Medicare select insurer of informing policyholders of the plan's service and features, including but not limited to, the plan's grievance procedures, its process for choosing and changing in-network providers, and the procedures for providing and approving emergency and specialty care;

4. - 4.c. ...

5. a list and description, by specialty, of the network providers, including the Medicare select issuer's procedures for making referrals within and outside its network;

6. ...

7. the listing of hospitals and the number of hospital beds available for the policyholders at an in-network hospital;

8. any other information requested by the commissioner.

F.1. A Medicare select issuer shall file for approval any proposed changes, material or otherwise, to the plan of operation or contracts, except for changes to the listing of network providers, with the commissioner prior to implementation of any changes. The removal or withdrawal of any hospital from a Medicare select issuer's network shall constitute a material change to the plan of operation or contract and shall be filed with the commissioner in accordance with the provisions of this Subsection. Changes shall be considered approved by the commissioner after 30 days unless specifically disapproved.

2. All filings of proposed changes, material or otherwise, to the plan of operation or contracts as required by this Section shall include, but not be limited to the following:

a. the listing of hospitals and the number of hospital beds available for the policyholders at an in-network hospital;

b. any other information requested by the commissioner.

3. An updated list of network providers shall be filed with the commissioner at least quarterly.

G. - O. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1111 (re-designated from LSA-R.S. 22:224 pursuant to Acts 2008, No. 415, effective January 1, 2009) and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1108 (June 1999), repromulgated LR 25:1488 (August 1999), amended LR 29:2442 (November 2003), LR 31:2910 (November 2005), LR 32:1462 (August 2006), LR:35:1120 (June 2009).

#### **§535. Guaranteed Issue for Eligible Persons**

A. - B.3.a.iv. ...

b. pursuant to Subsection B.3.a.i, B.3.a.ii, and B.3.a.iii, the enrollment ceases under the same circumstances that would permit discontinuance of an individual's election of coverage under §535.B.2; or pursuant to Subsection B.3.a.iv, the enrollment ceases and discontinuance of an individual's election of coverage occurs due to one of the following:

i. the certification of the organization or plan has been terminated, or the organization has terminated or otherwise discontinued providing the plan in the area in which the individual resides;

ii. the individual is no longer eligible to elect the plan because of a change in the individual's place of residence or other change in circumstances specified by the commissioner, but not including termination of the individual's enrollment on the basis described in Section 1851(g)(3)(B) of the federal Social Security Act (where the individual has not paid premiums on a timely basis or has engaged in disruptive behavior as specified in standards under Section 1856), or the plan is terminated for all individuals within a residence area;

iii. the individual demonstrates, in accordance with guidelines established by the commissioner, that:

(a) the organization offering the plan substantially violated a material provision of the organization's contract(s) or plan of operation or the organization offering the plan made a material change or altered the organization's contract(s) or plan of operation that

potentially impacts the individual under this Part or Regulation 33, including the failure to provide an enrollee on a timely basis medically necessary care for which benefits are available under the plan or the failure to provide such covered care in accordance with applicable quality or adequacy standards or failure to provide covered services in accordance with the plan of operation, including but not limited to the adequacy of a organization's provider network(s); or

(b). the organization, or agent or other entity acting on the organization's behalf, materially

misrepresented the plan's provisions in marketing the plan to the individual; or

B.4. - F.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1111 (re-designated from LSA-R.S. 22:224 pursuant to Acts 2008, No. 415, effective January 1, 2009) and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1110 (June 1999), repromulgated LR 25:1490 (August 1999), amended LR 29:2444 (November 2003), LR 31:2912 (November 2005), LR:35:1120 (June 2009).

**§560. Required Disclosure Provisions**

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

4. the following items shall be included in the outline of coverage in the order prescribed below:

**Benefit Chart of Medicare Supplement Plans Sold for Effective Dates on or After June 1, 2010**

This chart shows the benefits included in each of the standard Medicare supplement plans. Every company must make Plan "A" available. Some plans may not be available in Louisiana.

Plans E, H, I, and J are no longer available for sale. [This sentence shall not appear after June 1, 2011.]

Basic Benefits:

- Hospitalization – Part A coinsurance plus coverage for 365 additional days after Medicare benefits end.
  - Medical Expenses – Part B coinsurance (generally 20% of Medicare-approved expenses) or copayments for hospital outpatient services.
- Plans K, L and N require insureds to pay a portion of Part B coinsurance or co-payments.
- Blood – First three pints of blood each year.
  - Hospice – Part A coinsurance

A	B	C	D	F	F*	G
Basic, including 100% Part B coinsurance	Basic, including 100% Part B coinsurance	Basic, including 100% Part B coinsurance	Basic, including 100% Part B coinsurance	Basic, including 100% Part B coinsurance*		Basic, including 100% Part B coinsurance
		Skilled Nursing Facility Coinsurance	Skilled Nursing Facility Coinsurance	Skilled Nursing Facility Coinsurance		Skilled Nursing Facility Coinsurance
	Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible		Part A Deductible
		Part B Deductible		Part B Deductible		
				Part B Excess (100%)		Part B Excess (100%)
		Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency		Foreign Travel Emergency
K		L		M		N
Hospitalization and preventive care paid at 100%; other basic benefits paid at 50%		Hospitalization and preventive care paid at 100%; other basic benefits paid at 75%		Basic, including 100% Part B coinsurance		Basic, including 100% Part B coinsurance, except up to \$20 copayment for office visit, and up to \$50 copayment for ER
50% Skilled Nursing Facility Coinsurance		75% Skilled Nursing Facility Coinsurance		Skilled Nursing Facility Coinsurance		Skilled Nursing Facility Coinsurance
50% Part A Deductible		75% Part A Deductible		50% Part A Deductible		Part A Deductible
				Foreign Travel Emergency		Foreign Travel Emergency
Out-of-pocket limit \$[4620]; paid at 100% after limit reached		Out-of-pocket limit \$[2310]; paid at 100% after limit reached				

\* Plan F also has an option called a high deductible Plan F. This high deductible plan pays the same benefits as Plan F after one has paid a calendar year \$[2000] deductible. Benefits from high deductible plan F will not begin until out-of-pocket expenses exceed \$[2000]. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. These expenses include the Medicare deductibles for Part A and Part B, but do not include the plan's separate foreign travel emergency deductible.

**PREMIUM INFORMATION [Boldface Type]**

We [insert issuer's name] can only raise your premium if we raise the premium for all policies like yours in this state. [If the premium is based on the increasing age of the insured, include information specifying when premiums will change.]

**DISCLOSURES [Boldface Type]**

Use this outline to compare benefits and premiums among policies.

This outline shows benefits and premiums of policies sold for effective dates on or after June 1, 2010. Policies sold for effective dates prior to June 1, 2010 have different benefits and premiums. Plans E, H, I, and J are no longer available for sale. [This paragraph shall not appear after June 1, 2011].

**READ YOUR POLICY VERY CAREFULLY [Boldface Type]**

This is only an outline describing your policy's most important features. The policy is your insurance contract. You must read the policy itself to understand all of the rights and duties of both you and your insurance company.

**RIGHT TO RETURN POLICY [Boldface Type]**

If you find that you are not satisfied with your policy, you may return it to [insert issuer's address]. If you send the policy back to us within 30 days after you receive it, we will treat the policy as if it had never been issued and return all of your payments.

**POLICY REPLACEMENT [Boldface Type]**

If you are replacing another health insurance policy, do NOT cancel it until you have actually received your new policy and are sure you want to keep it.

**NOTICE [Boldface Type]**

This policy may not fully cover all of your medical costs.

[for agents:]

Neither [insert company's name] nor its agents are connected with Medicare.

[for direct response:]

[insert company's name] is not connected with Medicare.

This outline of coverage does not give all the details of Medicare coverage. Contact your local Social Security Office or consult The Medicare Handbook for more details.

**COMPLETE ANSWERS ARE VERY IMPORTANT [Boldface Type]**

When you fill out the application for the new policy, be sure to answer truthfully and completely all questions about your medical and health history. The company may cancel your policy and refuse to pay any claims if you leave out or falsify important medical information. [If the policy or certificate is guaranteed issue, this paragraph need not appear.]

Review the application carefully before you sign it. Be certain that all information has been properly recorded.

[Include for each plan prominently identified in the cover page, a chart showing the services, Medicare payments, plan payments and insured payments for each plan, using the same language, in the same order, using uniform layout and format as shown in the charts below. No more than four plans may be shown on one chart. For purposes of illustration, charts for each plan are included in this regulation. An issuer may use additional benefit plan designations on these charts pursuant to §521.D of this regulation.] [Include an explanation of any innovative benefits on the cover page and in the chart, in a manner approved by the commissioner.]

**Plan A**

**Medicare (Part A)—Hospital Services—Per Benefit Period**

\*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

Services	Medicare Pays	Plan Pays	You Pay
<b>Hospitalization*</b> Semiprivate room and board, general nursing and miscellaneous services and supplies First 60 days 61st thru 90th day 91st day and after: --While using 60 lifetime reserve days --Once lifetime reserve days are used: --Additional 365 days --Beyond the additional 365 days	All but \$[1068] All but \$[267] a day  All but \$[534] a day  \$0 \$0	\$0 \$[267] a day  \$[534] a day  100% of Medicare Eligible Expenses \$0	\$[1068](Part A deductible) \$0  \$0  \$0** All Costs
<b>Skilled Nursing Facility Care*</b> You must meet Medicare's requirements including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital First 20 days 21st thru 100th day 101st day and after	All approved amounts All but \$[133.50] a day \$0	\$0 \$0 \$0	\$0 Up to \$[133.50] a day All costs
<b>Blood</b> First 3 pints Additional amounts	\$0 100%	3 pints \$0	\$0 \$0
<b>Hospice Care</b> You must meet Medicare's requirements, including a doctor's certification of terminal illness.	All but very limited copayment/coinsurance for out-patient drugs and inpatient respite Care	Medicare copayment/ Coinsurance	\$0

\*\*NOTE: When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

**Plan A**  
**Medicare (Part B)—Medical Services—Per Calendar Year**

\*Once you have been billed \$[135] of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

Services	Medicare Pays	Plan Pays	You Pay
<b>Medical Expenses</b> —In or Out of the Hospital and Outpatient Hospital Treatment, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, First \$[135] of Medicare Approved Amounts* Remainder of Medicare Approved Amounts	\$0 Generally, 80%	\$0 Generally, 20%	\$[135](Part B Deductible) \$0
<b>Part B Excess Charges</b> (Above Medicare Approved Amounts)	\$0	\$0	All Costs
<b>Blood</b> First 3 pints Next \$[135 ] of Medicare Approved Amounts* Remainder of Medicare Approved Amounts	\$0 \$0 80%	All Costs \$0 20%	\$0 \$[135](Part B Deductible) \$0
<b>Clinical Laboratory Services</b> —Tests for Diagnostic Services	100%	\$0	\$0

**Parts A and B**

<b>Home Health Care</b> Medicare Approved Services --Medically necessary skilled care services and medical supplies --Durable medical equipment First \$[135 ] of Medicare Approved Amounts* Remainder of Medicare Approved Amounts	100% \$0 80%	\$0 \$0 20%	\$0 \$[135](Part B Deductible) \$0
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**Plan B**  
**Medicare (Part A)—Hospital Services—Per Benefit Period**

\*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

Services	Medicare Pays	Plan Pays	You Pay
<b>Hospitalization*</b> Semiprivate room and board, general nursing and miscellaneous services and supplies First 60 days 61st thru 90th day 91st day and after: --While using 60 lifetime reserve days --Once lifetime reserve days are used: --Additional 365 days --Beyond the additional 365 days	All but \$[1068] All but \$[267] a day All but \$[534] a day \$0 \$0	\$[1068](Part A Deductible) \$[267] a day \$[534] a day 100% of Medicare Eligible Expenses \$0	\$0 \$0 \$0 \$0** All Costs
<b>Skilled Nursing Facility Care*</b> You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital First 20 days 21st thru 100th day 101st day and after	All approved amounts All but \$[133.50] a day \$0	\$0 \$0 \$0	\$0 Up to \$[133.50] a day All costs
<b>Blood</b> First 3 pints Additional amounts	\$0 100%	3 pints \$0	\$0 \$0
<b>Hospice Care</b> You must meet Medicare's requirements, including a doctor's certification of terminal illness	All but very limited copayment/coinsurance for outpatient drugs and inpatient respite care	Medicare copayment/coinsurance	\$0

\*\*NOTE: When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

**Plan B**  
**Medicare (Part B)—Medical Services—Per Calendar Year**

\*Once you have been billed \$[135] of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

Services	Medicare Pays	Plan Pays	You Pay
<b>Medical Expenses</b> —In or Out of the Hospital and Outpatient Hospital Treatment, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, First \$[135] of Medicare-Approved Amounts* Remainder of Medicare- Approved Amounts	\$0 Generally, 80%	\$0 Generally, 20%	\$[135] (Part B Deductible) \$0
<b>Part B Excess Charges</b> (Above Medicare Approved Amounts)	\$0	\$0	All Costs
<b>Blood</b> First 3 pints Next \$[135] of Medicare-Approved Amounts* Remainder of Medicare-Approved Amounts	\$0 \$0 80%	All Costs \$0 20%	\$0 \$[135] (Part B Deductible) \$0
<b>Clinical Laboratory Services--</b> Tests for Diagnostic Services	100%	\$0	\$0

**Parts A and B**

<b>Home Health Care</b> Medicare Approved Services --Medically necessary skilled care services and medical supplies --Durable medical equipment First \$[135] of Medicare-Approved Amounts* Remainder of Medicare-Approved Amounts	100% \$0 80%	\$0 \$0 20%	\$0 \$[135] (Part B Deductible) \$0
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**Plan C**  
**Medicare (Part A)—Hospital Services—Per Benefit Period**

\*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

Services	Medicare Pays	Plan Pays	You Pay
<b>Hospitalization*</b> Semiprivate room and board, general nursing and miscellaneous services and supplies First 60 days 61st thru 90th day 91st day and after: --While using 60 lifetime reserve days --Once lifetime reserve days are used: Additional 365 days Beyond the additional 365 days	All but \$[1068] All but \$[267] a day All but \$[534] a day \$0 \$0	\$[1068](Part A Deductible) \$[267] a day \$[534] a day 100% of Medicare Eligible Expenses \$0	\$0 \$0 \$0 \$0** All Costs
<b>Skilled Nursing Facility Care*</b> You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital First 20 days 21st thru 100th day 101st day and after	All approved amounts All but \$[133.50] a day \$0	\$0 Up to \$[133.50] a day \$0	\$0 \$0 All costs
<b>Blood</b> First 3 pints Additional amounts	\$0 100%	3 pints \$0	\$0 \$0
<b>Hospice Care</b> You must meet Medicare's requirements, including a doctor's certification of terminal illness.	All but very limited co-payment/coinsurance for out-patient drugs and inpatient respite Care	Medicare co-payment/ coinsurance	\$0

\*\*NOTE: When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

**Plan C**  
**Medicare (Part B)—Medical Services—Per Calendar Year**

\*Once you have been billed \$[135] of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

Services	Medicare Pays	Plan Pays	You Pay
<b>Medical Expenses</b> —In or Out of the Hospital and Outpatient Hospital Treatment, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, First \$[135] of Medicare-Approved Amounts* Remainder of Medicare-Approved Amounts	\$0 Generally, 80%	\$[135] (Part B Deductible) Generally, 20%	\$0 \$0
<b>Part B Excess Charges</b> (Above Medicare Approved Amounts)	\$0	\$0	All Costs
<b>Blood</b> First 3 pints Next \$[135] of Medicare-Approved Amounts* Remainder of Medicare-Approved Amounts	\$0 \$0 80%	All Costs \$[135] (Part B Deductible) 20%	\$0 \$0 \$0
<b>Clinical Laboratory Services</b> — Tests for Diagnostic Services	100%	\$0	\$0

**Parts A and B**

<b>Home Health Care</b> Medicare Approved Services --Medically necessary skilled care services and medical supplies --Durable medical equipment First \$[135] of Medicare-Approved Amounts* Remainder of Medicare-Approved Amounts	100% \$0 80%	\$0 \$[135] (Part B Deductible) 20%	\$0 \$0 \$0
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**Other Benefits—Not Covered by Medicare**

<b>Foreign Travel—Not Covered By Medicare</b> Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA First \$250 each calendar year Remainder of Charges	\$0 \$0	\$0 80% to a lifetime maximum benefit of \$50,000	\$250 20% and amounts over the \$50,000 lifetime maximum
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**Plan D**  
**Medicare (Part A)—Hospital Services—Per Benefit Period**

\*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

Services	Medicare Pays	Plan Pays	You Pay
<b>Hospitalization*</b> Semiprivate room and board, general nursing and miscellaneous services and supplies First 60 days 61st thru 90th day 91st day and after: --While using 60 lifetime reserve days --Once lifetime reserve days are used: --Additional 365 days --Beyond the additional 365 days	All but \$[1068] All but \$[267] a day All but \$[534] a day \$0 \$0	\$[1068](Part A Deductible) \$[267] a day \$[534] a day 100% of Medicare Eligible Expenses \$0	\$0 \$0 \$0 \$0** All Costs
<b>Skilled Nursing Facility Care*</b> You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital First 20 days 21st thru 100th day 101st day and after	All approved amounts All but \$[133.50] a day \$0	\$0 Up to \$[133.50] a day \$0	\$0 \$0 All costs
<b>Blood</b> First 3 pints Additional amounts	\$0 100%	3 pints \$0	\$0 \$0

Services	Medicare Pays	Plan Pays	You Pay
<b>Hospice Care</b> You must meet Medicare's requirements, including a doctor's certification of terminal illness.	All but very limited co-payment/coinsurance for out-patient drugs and inpatient respite care	Medicare copayment/coinsurance	\$0

\*\*NOTE: When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

**Plan D  
Medicare (Part B)—Medical Services—Per Calendar Year**

\*Once you have been billed \$[135] of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

Services	Medicare Pays	Plan Pays	You Pay
<b>Medical Expenses</b> —In or Out of the Hospital and Outpatient Hospital Treatment, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, First \$[135] of Medicare-Approved Amounts* Remainder of Medicare-Approved Amounts	\$0 Generally, 80%	\$0 Generally, 20%	\$[135] (Part B Deductible) \$0
<b>Part B Excess Charges</b> (Above Medicare Approved Amounts)	\$0	\$0	All Costs
<b>Blood</b> First 3 pints Next \$[135] of Medicare-Approved Amounts* Remainder of Medicare-Approved Amounts	\$0 \$0 80%	All Costs \$0 20%	\$0 \$[135] (Part B Deductible) \$0
<b>Clinical Laboratory Services</b> — Tests For Diagnostic Services	100%	\$0	\$0

**Plan D (continued)  
Parts A and B**

Services	Medicare Pays	Plan Pays	You Pay
<b>Home Health Care</b> Medicare Approved Services --Medically necessary skilled care services and medical supplies --Durable medical equipment First \$[135] of Medicare-Approved Amounts* Remainder of Medicare-Approved Amounts	100% \$0 80%	\$0 \$0 20%	\$0 \$[135] (Part B Deductible) \$0

**Other Benefits—Not Covered by Medicare**

<b>Foreign Travel—Not Covered by Medicare</b> Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA First \$250 each calendar year Remainder of Charges	\$0 \$0	\$0 80% to a lifetime maximum benefit of \$50,000	\$250 20% and amounts over the \$50,000 lifetime maximum
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**Plan F or High Deductible Plan F  
Medicare (Part A)—Hospital Services—Per Benefit Period**

\*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

[\*\*This high deductible plan pays the same or offers the same benefits as Plan F after one has paid a calendar year [\$2000] deductible. Benefits from the high deductible Plan F will not begin until out-of-pocket expenses are [\$2000]. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. This includes the Medicare deductibles for Part A and Part B, but does not include the plan's separate foreign travel emergency deductible.]

Services	Medicare Pays	[After You Pay [\$2000] Deductible,** Plan Pays]	[In Addition to [\$2000] Deductible,** You Pay]
<b>Hospitalization*</b> Semiprivate room and board, general nursing and miscellaneous services and supplies First 60 days 61st thru 90th day 91st day and after: --While using 60 lifetime reserve days --Once lifetime reserve days are used: Additional 365 days Beyond the additional 365 days	All but \$[1068] All but \$ [267]a day  All but \$[534]a day  \$0 \$0	\$[1068](Part A Deductible) \$[267]a day  \$[534] a day  100% of Medicare Eligible Expenses \$0	\$0 \$0  \$0  \$0 All Costs
<b>Skilled Nursing Facility Care*</b> You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital First 20 days 21st thru 100th day 101st day and after	All approved amounts All but \$[133.50] a day \$0	\$0 Up to \$[133.50] a day \$0	\$0 \$0 All costs
<b>Blood</b> First 3 pints Additional amounts	\$0 100%	3 pints \$0	\$0 \$0
<b>Hospice Care</b> You must meet Medicare's requirements, including a doctor's certification of terminal illness.	All but very limited co-payment/coinsurance for out-patient drugs and inpatient respite care	Medicare co-payment/coinsurance	\$0

\*\*\*NOTE: When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance on any difference between its billed charges and the amount Medicare would have paid.

**Plan F or High Deductible Plan F (Continued)**  
**Medicare (Part B)—Medical Services—Per Calendar Year**

\*Once you have been billed \$[135] of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

[\*\*This high deductible plan pays the same or offers the same benefits as Plan F after one has paid a calendar year [\$2000] deductible. Benefits from the high deductible Plan F will not begin until out-of-pocket expenses are [\$2000]. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. This includes the Medicare deductibles for Part A and Part B, but does not include the plan's separate foreign travel emergency deductible.]

Services	Medicare Pays	[After You Pay \$2000 Deductible,** Plan Pays]	[In Addition to \$2000 Deductible,** You Pay]
<b>Medical Expenses</b> —In or Out of the Hospital and Outpatient Hospital Treatment, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, First \$[135] of Medicare-Approved Amounts* Remainder of Medicare-Approved Amounts	\$0 Generally, 80%	\$[135] (Part B Deductible) Generally, 20%	\$0 \$0
<b>Part B Excess Charges</b> (Above Medicare Approved Amounts)	\$0	100%	\$0
<b>Blood</b> First 3 pints Next \$[135] of Medicare-Approved Amounts* Remainder of Medicare-Approved Amounts	\$0 \$0 80%	All Costs \$[135] (Part B Deductible) 20%	\$0 \$0 \$0
<b>Clinical Laboratory Services</b> — Tests For Diagnostic Services	100%	\$0	\$0

**Parts A and B**

<b>Home Health Care</b> Medicare Approved Services --Medically necessary skilled care services and medical supplies --Durable medical equipment First \$[135] of Medicare-Approved Amounts* Remainder of Medicare-Approved Amounts	100%  \$0 80%	\$0  \$[135] (Part B Deductible) 20%	\$0  \$0 \$0
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**Plan F or High Deductible Plan F (Continued)**

**Other Benefits—Not Covered by Medicare**

Services	Medicare Pays	After You Pay \$2000 Deductible,** Plan Pays	In Addition to \$2000 Deductible,** You Pay
<b>Foreign Travel—Not Covered by Medicare</b> Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA First \$250 each calendar year Remainder of Charges	\$0 \$0	\$0 80% to a lifetime maximum benefit of \$50,000	\$250 20% and amounts over the \$50,000 lifetime maximum

**Plan G**

**Medicare (Part A)—Hospital Services—Per Benefit Period**

\*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

Services	Medicare Pays	Plan Pays	You Pay
<b>Hospitalization*</b> Semiprivate room and board, general nursing and miscellaneous services and supplies First 60 days 61st thru 90th day 91st day and after: --While using 60 lifetime reserve days --Once lifetime reserve days are used: Additional 365 days Beyond the additional 365 days	All but \$[1068] All but \$[267] a day  All but \$[534] a day  \$0 \$0	\$[1068] (Part A Deductible) \$[267] a day  \$[534] a day  100% of Medicare Eligible Expenses \$0	\$0 \$0  \$0  \$0 All Costs
<b>Skilled Nursing Facility Care*</b> You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital First 20 days 21st thru 100th day 101st day and after	All approved amounts All but \$[133.50] a day \$0	\$0 Up to \$[133.50] a day \$0	\$0 \$0 All costs
<b>Blood</b> First 3 pints Additional amounts	\$0 100%	3 pints \$0	\$0 \$0
<b>Hospice Care</b> You must meet Medicare's requirements, including a doctor's certification of terminal illness.	All but very limited copayment/coinsurance for out-patient drugs and inpatient respite care	Medicare co-payment/coinsurance	\$0

\*\*NOTE: When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

**Plan G**

**Medicare (Part B)—Medical Services—Per Calendar Year**

\*Once you have been billed \$[135] of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

Services	Medicare Pays	Plan Pays	You Pay
<b>Medical Expenses</b> —In or Out of the Hospital and Outpatient Hospital Treatment, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, First \$[135] of Medicare-Approved Amounts* Remainder of Medicare-Approved Amounts Part B Excess Charges (Above Medicare Approved Amounts)	\$0 Generally, 80% \$0	\$0 Generally, 20% 100%	[\$135 (Part B Deductible)] \$0 \$0
<b>Blood</b> First 3 pints Next \$[135] of Medicare-Approved Amounts* Remainder of Medicare-Approved Amounts	\$0 \$0 80%	All Costs \$0 20%	\$0 [\$135] (Part B Deductible) \$0
<b>Clinical Laboratory Services</b> — Blood Tests For Diagnostic Services	100%	\$0	\$0

**Plan G (Continued)  
Parts A and B**

Services	Medicare Pays	Plan Pays	You Pay
<b>Home Health Care</b>			
Medicare Approved Services			
--Medically necessary skilled care services and medical supplies	100%	\$0	\$0
--Durable medical equipment			
First \$[135] of Medicare-Approved Amounts*	\$0	\$0	[\$135] (Part B Deductible)
Remainder of Medicare-Approved Amounts	80%	20%	\$0

**Other Benefits—Not Covered by Medicare**

<b>Foreign Travel--Not Covered by Medicare</b>			
Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First \$250 each calendar year	\$0	\$0	\$250
Remainder of Charges	\$0	80% to a lifetime maximum benefit of \$50,000	20% and amounts over the \$50,000 lifetime maximum

**Plan K**

\*You will pay half the cost-sharing of some covered services until you reach the annual out-of-pocket limit of \$[4620] each calendar year. The amounts that count toward your annual limit are noted with diamonds (♦) in the chart below. Once you reach the annual limit, the plan pays 100% of your Medicare co-payment and coinsurance for the rest of the calendar year. However, this limit does NOT include charges from your provider that exceed Medicare-approved amounts (these are called "Excess Charges") and you will be responsible for paying this difference in the amount charged by your provider and the amount paid by Medicare for the item or service.

**Medicare (Part A)—Hospital Services—Per Benefit Period**

\*\*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

Services	Medicare Pays	Plan Pays	You Pay*
<b>Hospitalization**</b>			
Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but \$[1068]	\$[534](50% of Part A deductible)	\$[534](50% of Part A deductible)♦
61st thru 90th day	All but \$[267] a day	\$[267] a day	\$0
91st day and after:			
--While using 60 lifetime reserve days	All but \$[534] a day	\$[534] a day	\$0
--Once lifetime reserve days are used:			
--Additional 365 days	\$0	100% of Medicare eligible expenses	\$0***
--Beyond the additional 365 days	\$0	\$0	All costs
<b>Skilled Nursing Facility Care**</b>			
You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	\$0	\$0
21st thru 100th day	All but \$[133.50] a day	Up to \$[66.75] a day	Up to \$[66.75] a day ♦
101st day and after	\$0	\$0	All costs
<b>Blood</b>			
First 3 pints	\$0	50%	50%♦
Additional amounts	100%	\$0	\$0
<b>Hospice Care</b>			
You must meet Medicare's requirements, including a doctor's certification of terminal illness.	All but very limited copayment/coinsurance for outpatient drugs and inpatient respite care	50% of co-payment/coinsurance	50% of Medicare co-payment/coinsurance♦

\*\*\*NOTE: When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

**Plan K  
Medicare (Part B)—Medical Services—Per Calendar Year**

\*\*\*\*Once you have been billed \$[135] of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

Services	Medicare Pays	Plan Pays	You Pay*
<b>Medical Expenses</b> —In or Out of the Hospital and Outpatient Hospital Treatment, such as Physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, First \$[135] of Medicare Approved Amounts**** Preventive Benefits for Medicare covered services Remainder of Medicare Approved Amounts	\$0  Generally 75% or more of Medicare approved amounts Generally 80%	\$0  Remainder of Medicare approved amounts Generally 10%	\$[135] (Part B deductible)**** ♦  All costs above Medicare approved amounts Generally 10% ♦
<b>Part B Excess Charges</b> (Above Medicare Approved Amounts)	\$0	\$0	All costs (and they do not count toward annual out-of-pocket limit of \$[4620])*
<b>Blood</b> First 3 pints Next \$[135] of Medicare Approved Amounts**** Remainder of Medicare Approved Amounts	\$0 \$0 Generally 80%	50% \$0 Generally 10%	50%♦ \$[135] (Part B deductible)**** ♦ Generally 10% ♦
<b>Clinical Laboratory Services</b> — Tests For Diagnostic Services	100%	\$0	\$0

\*This plan limits your annual out-of-pocket payments for Medicare-approved amounts to \$[4620] per year. However, this limit does NOT include charges from your provider that exceed Medicare-approved amounts (these are called "Excess Charges") and you will be responsible for paying this difference in the amount charged by your provider and the amount paid by Medicare for the item or service.

**Plan K  
Parts A and B**

Services	Medicare Pays	Plan Pays	You Pay*
<b>Home Health Care</b> Medicare Approved Services --Medically necessary skilled care services and medical supplies --Durable medical equipment First \$[135] of Medicare Approved Amounts***** Remainder of Medicare Approved Amounts	100%  \$0 80%	\$0 \$0 10%	\$0 \$[135] (Part B deductible) ♦ 10%♦

\*\*\*\*\*Medicare benefits are subject to change. Please consult the latest *Guide to Health Insurance for People with Medicare*.

**Plan L**

\*You will pay one-fourth of the cost-sharing of some covered services until you reach the annual out-of-pocket limit of \$[2310] each calendar year. The amounts that count toward your annual limit are noted with diamonds (♦) in the chart below. Once you reach the annual limit, the plan pays 100% of your Medicare co-payment and coinsurance for the rest of the calendar year. However, this limit does NOT include charges from your provider that exceed Medicare-approved amounts (these are called "Excess Charges") and you will be responsible for paying this difference in the amount charged by your provider and the amount paid by Medicare for the item or service.

**Medicare (Part A)—Hospital Services—Per Benefit Period**

\*\*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

Services	Medicare Pays	Plan Pays	You Pay*
<b>Hospitalization**</b> Semiprivate room and board, general nursing and miscellaneous services and supplies First 60 days 61st thru 90th day 91st day and after: --While using 60 lifetime reserve days --Once lifetime reserve days are used: --Additional 365 days --Beyond the additional 365 days	All but \$[1068] All but \$[267] a day  All but \$[534] a day  \$0 \$0	\$[808.50] (75% of Part A deductible) \$[267] a day  \$[534] a day  100% of Medicare eligible expenses \$0	\$[267] (25% of Part A deductible)♦ \$0  \$0  \$0*** All costs

Services	Medicare Pays	Plan Pays	You Pay*
<b>Skilled Nursing Facility Care**</b> You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility Within 30 days after leaving the hospital First 20 days 21st thru 100th day 101st day and after	All approved amounts All but \$[133.50] a day \$0	\$0 Up to \$[100.13] a day \$0	\$0 Up to \$[33.38] a day♦ All costs
<b>Blood</b> First 3 pints Additional amounts	\$0 100%	75% \$0	25%♦ \$0
<b>Hospice Care</b> You must meet Medicare's requirements, including a doctor's certification of terminal illness.	All but very limited copayment/coinsurance for outpatient drugs and inpatient respite care	75% of co-payment/coinsurance	25% of co-payment/coinsurance♦

\*\*\*NOTE: When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

**Plan L  
Medicare (Part B)—Medical Services—Per Calendar Year**

\*\*\*Once you have been billed \$[135] of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

Services	Medicare Pays	Plan Pays	You Pay*
<b>Medical Expenses</b> —In or Out of the Hospital and Outpatient Hospital Treatment, such as Physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, First \$[135] of Medicare Approved Amounts**** Preventive Benefits for Medicare covered services Remainder of Medicare Approved Amounts	\$0 Generally 75% or more of Medicare approved amounts Generally 80%	\$0 Remainder of Medicare approved amounts Generally 15%	\$[135] (Part B deductible)**** ♦ All costs above Medicare approved amounts Generally 5% ♦
<b>Part B Excess Charges</b> (Above Medicare Approved Amounts)	\$0	\$0	All costs (and they do not count toward annual out-of-pocket limit of \$[2310])*
<b>Blood</b> First 3 pints Next \$[135] of Medicare Approved Amounts**** Remainder of Medicare Approved Amounts	\$0 \$0 Generally 80%	75% \$0 Generally 15%	25%♦ \$[135] (Part B deductible) ♦ Generally 5%♦
<b>Clinical Laboratory Services</b> — Tests For Diagnostic Services	100%	\$0	\$0

\*This plan limits your annual out-of-pocket payments for Medicare-approved amounts to \$[2310] per year. However, this limit does NOT include charges from your provider that exceed Medicare-approved amounts (these are called "Excess Charges") and you will be responsible for paying this difference in the amount charged by your provider and the amount paid by Medicare for the item or service.

**Plan L  
Parts A and B**

Services	Medicare Pays	Plan Pays	You Pay*
<b>Home Health Care</b> Medicare Approved Services --Medically necessary skilled care services and medical supplies --Durable medical equipment First \$[135] of Medicare Approved Amounts***** Remainder of Medicare Approved Amounts	100% \$0 80%	\$0 \$0 15%	\$0 \$[135] (Part B deductible) ♦ 5% ♦

\*\*\*\*\*Medicare benefits are subject to change. Please consult the latest *Guide to Health Insurance for People with Medicare*.

**Plan M  
Medicare (Part A)—Hospital Services—Per Benefit Period**

\*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

Services	Medicare Pays	Plan Pays	You Pay
<b>Hospitalization*</b> Semiprivate room and board, general nursing and miscellaneous services and supplies First 60 days	All but \$[1068]	\$[534] (50% of Part A deductible)	\$[534] (50% of Part A deductible)
61st thru 90th day	All but \$[267] a day	\$[267] a day	\$0
91st day and after: --While using 60 lifetime reserve days	All but \$[534] a day	\$[534] a day	\$0
Once lifetime reserve days are used: --Additional 365 days	\$0	100% of Medicare Eligible Expenses	\$0**
--Beyond the additional 365 days	\$0	\$0	All Costs
<b>Skilled Nursing Facility Care*</b> You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital First 20 days	All approved amounts	\$0	\$0
21st thru 100th day	All but \$[133.50] a day	Up to \$[133.50] a day	\$0
101st day and after	\$0	\$0	All costs
<b>Blood</b> First 3 pints	\$0	3 pints	\$0
Additional amounts	100%	\$0	\$0
<b>Hospice care</b> You must meet Medicare's requirements, including a doctor's certification of terminal illness.	All but very limited co-payment/coinsurance for outpatient drugs and inpatient respite care	Medicare co-payment/coinsurance	\$0

\*\*NOTE: When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time, the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

**Plan M  
Medicare (Part B)—Medical Services—Per Calendar Year**

\*Once you have been billed \$[135] of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

Services	Medicare Pays	Plan Pays	You Pay
<b>Medical Expenses</b> —In or Out of the Hospital and Outpatient Hospital Treatment, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment First \$[135] of Medicare-Approved Amounts*	\$0	\$0	\$[135] (Part B deductible)
Remainder of Medicare-Approved Amounts	Generally 80%	Generally 20%	\$0
<b>Part B Excess Charges</b> (Above Medicare-Approved Amounts)	\$0	\$0	All Costs
<b>Blood</b> First 3 pints	\$0	All Costs	\$0
Next \$[135] of Medicare-Approved Amounts*	\$0	\$0	\$[135] (Part B deductible)
Remainder of Medicare-Approved Amounts	80%	20%	\$0
<b>Clinical Laboratory Services</b> —Tests For Diagnostic Services	100%	\$0	\$0

**Parts A and B**

Services	Medicare Pays	Plan Pays	You Pay
<b>Home Health Care</b> Medicare Approved Services Medically necessary skilled care services and medical supplies			
--Durable medical equipment	100%	\$0	\$0
First \$[135] of Medicare-Approved Amounts*	\$0	\$0	\$[135] (Part B deductible)
Remainder of Medicare-Approved Amounts	80%	20%	\$0

**Other Benefits—Not Covered by Medicare**

<b>Foreign Travel--Not Covered by Medicare</b> Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First \$250 each calendar year	\$0	\$0	\$250
Remainder of Charges	\$0	80% to a lifetime maximum benefit of \$50,000	20% and amounts over the \$50,000 lifetime maximum

**Plan N**

**Medicare (Part A)—Hospital Services—Per Benefit Period**

\*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

Services	Medicare Pays	Plan Pays	You Pay
<b>Hospitalization*</b> Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but \$[1068]	\$[1068] (Part A deductible)	\$0
61st thru 90th day	All but \$[267] a day	\$[267] a day	\$0
91st day and after: --While using 60 lifetime reserve days	All but \$[534] a day	\$[534] a day	\$0
Once lifetime reserve days are used: --Additional 365 days	\$0	100% of Medicare Eligible Expenses	\$0**
--Beyond the additional 365 days	\$0	\$0	All Costs
<b>Skilled Nursing Facility Care*</b> You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	\$0	\$0
21st thru 100th day	All but \$[133.50] a day	Up to \$[133.50] a day	\$0
101st day and after	\$0	\$0	All costs
<b>Blood</b> First 3 pints	\$0	3 pints	\$0
Additional amounts	100%	\$0	\$0
<b>Hospice Care</b> You must meet Medicare's requirements, including a doctor's certification of terminal illness.	All but very limited co-payment/coinsurance for outpatient drugs and inpatient respite care	Medicare co-payment/coinsurance	\$0

\*\*NOTE: When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time, the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

**Plan N (continued)**  
**Medicare (Part B)—Medical Services—Per Calendar Year**

\*Once you have been billed \$[135] of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

Services	Medicare Pays	Plan Pays	You Pay
<b>Medical Expenses</b> —In or Out of the Hospital and Outpatient Hospital Treatment, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment First \$[135] of Medicare-Approved Amounts*	\$0	\$0	\$[135] (Part B deductible)
Remainder of Medicare-Approved Amounts	Generally 80%	Balance, other than up to \$20 per office visit and up to \$50 per emergency room visit. The co-payment of up to \$50 is waived if the insured is admitted to any hospital and the emergency visit is covered as a Medicare Part A expense.	Up to \$20 per office visit and up to \$50 per emergency room visit. The co-payment of up to \$50 is waived if the insured is admitted to any hospital and the emergency visit is covered as a Medicare Part A expense.
<b>Part B Excess Charges</b> (Above Medicare Approved Amounts)	\$0	\$0	All Costs
<b>Blood</b> First 3 pints	\$0	All Costs	\$0
Next \$[135] of Medicare-Approved Amounts*	\$0	\$0	\$[135] (Part B deductible)
Remainder of Medicare-Approved Amounts	80%	20%	\$0
<b>Clinical Laboratory Services</b> —Tests for Diagnostic Services	100%	\$0	\$0

**Parts A and B**

Services	Medicare Pays	Plan Pays	You Pay
<b>Home Health Care</b> Medicare Approved Services Medically necessary skilled care services and medical supplies			
--Durable medical equipment	100%	\$0	\$0
First \$[135] of Medicare-Approved Amounts*	\$0	\$0	\$[135] (Part B deductible)
Remainder of Medicare-Approved Amounts	80%	20%	\$0

**Plan N (continued)**  
**Other Benefits—Not Covered by Medicare**

<b>Foreign Travel – Not Covered By Medicare</b> Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA First \$250 each calendar year	\$0	\$0	\$250
Remainder of Charges	\$0	80% to a lifetime maximum benefit of \$50,000	20% and amounts over the \$50,000 lifetime maximum

E. - E.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1111 (re-designated from LSA-R.S. 22:224 pursuant to Acts 2008, No. 415, effective January 1, 2009) and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1114 (June 1999), repromulgated LR 25:1495 (August 1999), amended LR 29:2449 (November 2003), LR 31:2918 (November 2005), LR:35:1121 (June 2009).

**§565. Requirements for Application Forms and Replacement Coverage**

A. Application forms shall include the following questions designed to elicit information as to whether, as of the date of the application, the applicant currently has Medicare supplement, Medicare Advantage, Medicaid coverage, or any other health insurance policy or certificate in force or whether a Medicare supplement policy or certificate is intended to replace any other accident and sickness policy or certificate presently in force. A supplementary application or other form to be signed by the applicant and agent containing such questions and statements may be used.

B. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1111 (re-designated from LSA-R.S. 22:224 pursuant to Acts 2008, No. 415, effective January 1, 2009) and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1130 (June 1999), repromulgated LR 25:1510 (August 1999), LR 29:2474 (November 2003), amended LR 31:2937 (November 2005), LR:35:1135 (June 2009).

**§591. Prohibition Against Use of Genetic Information and Requests for Genetic Testing**

A. This Section applies to all policies with policy years beginning on or after May 21, 2009.

1. An issuer of a Medicare supplement policy or certificate;

a. shall not deny or condition the issuance or effectiveness of the policy or certificate (including the imposition of any exclusion of benefits under the policy based on a pre-existing condition) on the basis of the genetic information with respect to such individual; and

b. shall not discriminate in the pricing of the policy or certificate (including the adjustment of premium rates) of an individual on the basis of the genetic information with respect to such individual.

2. Nothing in Subsection A.1 shall be construed to limit the ability of an issuer, to the extent otherwise permitted by law, from

a. denying or conditioning the issuance or effectiveness of the policy or certificate or increasing the premium for a group based on the manifestation of a disease or disorder of an insured or applicant; or

b. increasing the premium for any policy issued to an individual based on the manifestation of a disease or disorder of an individual who is covered under the policy (in such case, the manifestation of a disease or disorder in one individual cannot also be used as genetic information about other group members and to further increase the premium for the group).

3. An issuer of a Medicare supplement policy or certificate shall not request or require an individual or a family member of such individual to undergo a genetic test.

4. Subsection A.3 shall not be construed to preclude an issuer of a Medicare supplement policy or certificate from obtaining and using the results of a genetic test in making a determination regarding payment (as defined for the purposes of applying the regulations promulgated under Part C of Title XI and Section 264 of the Health Insurance Portability and Accountability Act of 1996, as may be

revised from time to time) and consistent with Subsection A.1.

5. For purposes of carrying out Subsection A.4, an issuer of a Medicare supplement policy or certificate may request only the minimum amount of information necessary to accomplish the intended purpose.

6. Notwithstanding Subsection A.3, an issuer of a Medicare supplement policy may request, but not require, that an individual or a family member of such individual undergo a genetic test if each of the following conditions is met:

a. The request is made pursuant to research that complies with Part 46 of Title 45, Code of Federal Regulations, or equivalent federal regulations, and any applicable state or local law or regulations for the protection of human subjects in research.

b. The issuer clearly indicates to each individual, or in the case of a minor child, to the legal guardian of such child, to whom the request is made that:

i. compliance with the request is voluntary; and

ii. non-compliance will have no effect on enrollment status or premium or contribution amounts.

c. No genetic information collected or acquired under this Subsection shall be used for underwriting, determination of eligibility to enroll or maintain enrollment status, premium rates, or the issuance, renewal, or replacement of a policy or certificate.

d. The issuer notifies the secretary in writing that the issuer is conducting activities pursuant to the exception provided for under this Subsection, including a description of the activities conducted.

e. The issuer complies with such other conditions as the secretary may by regulation require for activities conducted under this Subsection.

7. An issuer of a Medicare supplement policy or certificate shall not request, require, or purchase genetic information for underwriting purposes.

8. An issuer of a Medicare supplement policy or certificate shall not request, require, or purchase genetic information with respect to any individual prior to such individual's enrollment under the policy in connection with such enrollment.

9. If an issuer of a Medicare supplement policy or certificate obtains genetic information incidental to the requesting, requiring, or purchasing of other information concerning any individual, such request, requirement, or purchase shall not be considered a violation of Subsection A.8 if such request, requirement, or purchase is not in violation of Subsection A.7.

10. For the purposes of this Section only:

a. *Issuer of a Medicare Supplement Policy or Certificate*—includes third-party administrator, or other person acting for or on behalf of such issuer.

b. *Family Member*—with respect to an individual, any other individual who is a first-degree, second-degree, third-degree, or fourth-degree relative of such individual.

c. *Genetic Information*—with respect to any individual, information about such individual's genetic tests, the genetic tests of family members of such individual, and the manifestation of a disease or disorder in family members of such individual. Such term includes, with respect to any individual, any request for, or receipt of, genetic services, or

participation in clinical research which includes genetic services, by such individual or any family member of such individual. Any reference to genetic information concerning an individual or family member of an individual, who is a pregnant woman, includes genetic information of any fetus carried by such pregnant woman, or with respect to an individual or family member utilizing reproductive technology, includes genetic information of any embryo legally held by an individual or family member. The term *genetic information* does not include information about the sex or age of any individual.

d. *Genetic Services*—a genetic test, genetic counseling (including obtaining, interpreting, or assessing genetic information), or genetic education.

e. *Genetic Test*—an analysis of human DNA, RNA, chromosomes, proteins, or metabolites, that detect genotypes, mutations, or chromosomal changes. The term “genetic test” does not mean an analysis of proteins or metabolites that does not detect genotypes, mutations, or chromosomal changes; or an analysis of proteins or metabolites that is directly related to a manifested disease, disorder, or pathological condition that could reasonably be detected by a health care professional with appropriate training and expertise in the field of medicine involved.

f. *Underwriting Purposes*—

i. rules for, or determination of, eligibility (including enrollment and continued eligibility) for benefits under the policy;

ii. the computation of premium or contribution amounts under the policy;

iii. the application of any pre-existing condition exclusion under the policy; and

iv. other activities related to the creation, renewal, or replacement of a contract of health insurance or health benefits.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 22:1111 (re-designated from LSA-R.S. 22:224 pursuant to Acts 2008, No. 415, effective January 1, 2009) and 42 U.S.C. 1395 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Insurance, Office of the Commissioner, LR 35:1135 (June 2009).

**§599. Effective Date**

A. This regulation shall become effective upon publication in the *Louisiana Register*.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 22:1111 (re-designated from LSA-R.S. 22:224 pursuant to Acts 2008, No. 415, effective January 1, 2009) and 42 U.S.C. 1395 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1142 (June 1999), repromulgated LR 25:1522 (August 1999), amended LR 29:2497 (November 2003), LR 31:2948 (November 2005), LR 35:1136 (June 2009).

James J. Donelon  
Commissioner

0906#018

**RULE**

**Department of Public Safety and Corrections  
Office of State Police**

Training and Education (LAC 55:I.301)

Under the authority of the State Police Law, R.S. 40:1375(F), and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Office of State Police hereby amends Section 301 under Chapter 3 to amend the user fees at LSP Training facilities.

**Title 55**

**PUBLIC SAFETY**

**Part I. State Police**

**Chapter 3. Training and Education**

**§301. User Fees for Louisiana State Police Facility**

A. The Louisiana State Police announces maximum user fees for its training facilities pursuant to R.S. 40:1375(F) according to the following schedule.

Louisiana State Police Training Facility Rates	
* * *	
Conference Center Lodge Rooms	
Lodges 3-6	\$70 single/\$90 double (GOVT)
	\$70 single/\$90 double (COMM)
VIP Lodge Rooms	\$100 single/\$100 double
* * *	

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 40:1375 (F)

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 12:116 (February 1986), amended LR 26:95 (January 2000), LR 26:2626 (November 2000), LR 34:94 (January 2008), LR 35:1136 (June 2009).

Jill P Boudreaux  
Undersecretary

0906#041

**RULE**

**Department of Revenue  
Office of Alcohol and Tobacco Control**

Regulation V—Solicitors  
(LAC 55:VII.309)

Under the authority of R.S. 26:793, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Office of Alcohol and Tobacco Control, has amended LAC 55:VII.309 relative to the minimum qualifications for successful applicants for Solicitors Permits.

This amendment to the above-referenced Rule is offered under authority delegated by and at the direction of the Louisiana Legislature in its amendment and re-enactment of R.S. 26:793 granting rule promulgation authority to the commissioner.

**Title 55**

**PUBLIC SAFETY**

**Part VII. Alcohol and Tobacco Control**

**Subpart 1. Beer and Liquor**

**Chapter 3. Liquor Credit Regulations**

**§309. Regulation V—Solicitors**

A. Applicants for state permits as solicitors shall meet the following qualifications in addition to those provided in R.S. 26:79:

1. is not the owner or manager required to file a Schedule A as the decision maker of a business having Class A, Class B or Class C Retail Liquor Permit;

2. if the spouse of a person who is the owner or manager of a business having a Class A, Class B or Class C Retail Liquor Permit, the solicitor-spouse cannot be the solicitor who calls on the spouse's business, and whatever supplier or wholesale license the solicitor's license is representing must not maintain any tied house or fair trade issues with the permittee;

3. these restrictions shall not apply to persons lawfully holding both retail and wholesale permits under the provisions of R.S. 26:83 (1950).

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:793.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Office of Alcoholic Beverage Control, 1950, filed at the Office of the State Register, 1974, amended by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 35:1137 (June 2009).

Murphy J. Painter  
Commissioner

0906#012

**RULE**

**Department of Revenue  
Policy Services Division**

**Individual Income Tax Filing Extensions  
(LAC 61:III.2501)**

Under the authority of R.S. 47:1511, 1514, 103(D), and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, adopts LAC 61:III.2501 to require taxpayers who are unable to file the state individual income tax return by the due date to request an extension to file.

The Secretary of Revenue is authorized, but not required, to accept an extension of time to file a federal income tax return as an extension of time to file a Louisiana income tax return. It has been Louisiana Department of Revenue (LDR) practice in past years to use this authorization to accept federal extensions, with copies of the federal extensions submitted with the Louisiana 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 2008 income tax return due in 2009, individual taxpayers who need additional time to file their Louisiana individual income tax returns will need to either request a specific state individual income tax filing extension or submit a copy of the taxpayer's Federal Application for Automatic Extension of Time To File U.S. Individual Income Tax Return on or before the return due date.

**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;

b. an electronic application for an extension via the Department of Revenue's web site; or

c. a paper copy of the IRS Application for Automatic Extension of Time To File U.S. Individual Income Tax Return.

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)

Cynthia Bridges  
Secretary

0906#042

**RULE**

**Department of Revenue  
Policy Services Division**

**Interest Waiver and Filing Extensions Following Disasters  
(LAC 61:III.2111 and 2116)**

Under authority of R.S. 47:1601(A)(2)(d) and 1511 and in accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, repealed LAC 61:III.2111 in its entirety and enacts LAC 61:III.2116 to provide for the waiver and compromise of interest following a disaster.

**Title 61**  
**REVENUE AND TAXATION**  
**Part III. Department of Revenue—Administrative**  
**Provisions and Miscellaneous**  
**Chapter 21. Interest and Penalties**  
**§2111. Interest Waiver and Filing Extensions Following**  
**Disasters**

Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 47:1601(A)(2)(c) and (d) and 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 32:261 (February 2006), repealed LR 35:1137 (June 2009).

**§ 2116. Interest Waiver and Filing Extensions Following Disasters**

A. Following a federally declared disaster, if the Secretary of Revenue authorizes extensions of time to pay for taxpayers whose residence, business or tax preparer is located in the disaster area, the secretary may allow for the compromise of all or part of the interest related to the payments for which an extension has been granted. The Secretary of Revenue has the discretion to compromise interest in any part or all of a disaster area. The secretary or designee shall authorize any compromise of interest under this Section by issuance of a Revenue Information Bulletin (RIB). Any communication from the Department of Revenue other than a RIB specifically citing this regulation should not be relied upon for the authorization for the compromise of interest.

1. A compromise of interest may be made retroactive to date of the federally declared disaster.

2. A compromise of interest under this Section may be made automatic only for individual income tax and estimated payments. All other taxes will require a written request to compromise interest.

3. Any compromise granted under this Section shall be applicable to all similarly situated taxpayers whose primary residence, business or tax preparer is located in the disaster area or portion of the disaster area in which the Secretary of Revenue has authorized the compromise of interest.

B. Any amount upon which interest began to accrue before the federally declared disaster will not be eligible for an interest compromise under this Section.

C. Business Taxpayers Located in the Disaster Area

1. A business will be considered to be located in the disaster area if the location at which it routinely does its tax preparation is in the disaster area or if it has significant accounting records necessary for tax preparation located in the disaster area.

2. Taxpayers whose tax preparation is routinely performed at a location within the disaster area will be eligible to have interest from all business locations compromised because the taxpayer could not file the return or pay taxes timely due to the disaster.

3. Taxpayers filing consolidated sales tax returns that include locations within and without the disaster areas and whose tax preparation is performed outside the disaster area should file returns using the information available from the disaster area at the time the return is due. When the amended return is filed that accurately reflects taxes owed from the disaster area, the taxpayer should attach a written request to

waive any interest resulting from inaccuracies from locations within the disaster area.

D. Annual report requirement following federally declared disasters. The annual reporting requirement for interest compromised under R.S. 47:1601(A)(2)(d) will be met by reporting the total interest compromised for all taxpayers attributable to the federally declared disaster. In the event that there is more than one federally declared disaster declared during a year, total interest compromised under each disaster will be reported separately.

E. Definitions

*Federally Declared Disaster*—a disaster for which the President of the United States has made a presidential major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

*Disaster Area*—a parish or location that has been declared a disaster area by the President of the United States.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1601(A)(2)(d) and 1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 35:1138 (June 2009).

Cynthia Bridges  
Secretary

0906#039

**RULE**

**Department of Revenue**  
**Policy Services Division**

Policy Statements (LAC 61:III.101)

Under the authority of R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, amends LAC 61.III.101 relative to Revenue Information Bulletins.

The Secretary of Revenue is authorized by R.S. 47:1511 to adopt reasonable rules and regulations to enforce the provisions relating to the taxes collected and administered by the department. LAC 61:III.101 establishes the types of policy statements to be issued for the proper administration and enforcement of the tax laws and the collection of revenues.

The purpose of this amendment is to provide more flexibility to the use of Revenue Information Bulletins to include purposes not specifically listed in LAC 61:III.101. This will allow the department to be more responsive to requests for guidance by taxpayers.

**Title 61**  
**REVENUE AND TAXATION**  
**Part III. Department of Revenue; Administrative**  
**Provisions and Miscellaneous**  
**Chapter 1. Agency Guidelines**  
**§101. Policy Statements**

A. - C.2.c.iv(c)(ix). ...

D. Other Types of Policy Guidance

1. Policy and Procedure Memoranda

a. A Policy and Procedure Memorandum (PPM) is an internal document providing internal administrative or management guidance to employees. A PPM does not have the force and effect of law and is not binding on the public.

It does not focus on taxpayers' substantive or procedural rights or obligations. It is binding on employees.

b. A PPM may be issued for any of the following reasons:

- i. to notify employees of internal policies that apply only to employees and do not apply to taxpayers;
- ii. to notify employees of internal procedures and instructions that do not apply to taxpayers; or
- iii. to inform employees of internal programs that affect only employees.

c. A PPM may not be the appropriate policy statement if:

- i. a taxpayer's substantive or procedural rights or obligations would be affected; or
- ii. a rule would be more appropriate under the APA.

## 2. Revenue Information Bulletin

a. A Revenue Information Bulletin (RIB) is an informal statement of information issued for the public and employees that is general in nature. A RIB does not have the force and effect of law and is not binding on the public or the department. RIBs will be established in a standard format and issued in sequence.

b. A RIB announces general information useful in complying with the laws administered by the department and may be issued under any circumstance deemed necessary by the secretary including:

- i. to inform the public and employees that a statute or regulation has been added, amended, or rescinded;
- ii. to inform the public and employees that a case has been decided;
- iii. to publish information to employees and the public that is based on data supplied by other agencies, such as per capita income figures or comparative tax collections by parish;
- iv. to publish IRS information;
- v. to publish information such as deadlines;
- vi. to inform the public of services offered by the department, such as regional office hours, website features, and like information; or
- vii. to revise a previous Revenue Information Bulletin, Tax Topics, or other similar publication.

## 3. Informal Advice

a. In addition to rules, Declaratory Rulings, Policy and Procedure Memoranda, and Revenue Information Bulletins, taxpayers and employees may still seek advice on tax questions. To assist customers, the department will provide informal advice. Informal advice does not have the force and effect of law and is not binding on the department, the public, or the person who asked for the advice. Informal advice will have no effect on an audit.

b. Any of the following types of informal advice may be provided.

i. **Informal Oral Advice.** There is no formal procedure for requesting informal oral advice. Employees will answer questions by telephone or in person as requested, within resource and appropriateness constraints. Advice given at audit meetings, protest conferences, and the like is considered informal oral advice.

ii. **Informal E-Mail Advice.** Has the same status as informal oral advice.

iii. **Informal Written Advice.** Requests for informal written advice should be in writing. Informal written advice is not a declaratory ruling.

iv. **Newsletters, Pamphlets, and Informational Publications.** The department may publish informational newsletters, pamphlets, and publications at regular intervals. Statements contained in these publications do not have the force and effect of law and they are not binding on the public or the department. They are merely helpful tools for disseminating information.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 47:1511.

**HISTORICAL NOTE:** Promulgated by the Department of Revenue, Office of the Secretary, LR 27:207 (February 2001), amended by the Department of Revenue, Policy Services Division, LR 35:1138 (June 2009).

Cynthia Bridges  
Secretary

0906#040

## RULE

### Department of Wildlife and Fisheries Wildlife and Fisheries Commission

#### Domesticated Aquatic Organisms (LAC 76:VII.905)

The Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission hereby establishes a procedure for adding a new species to the list of domesticated aquatic organisms.

#### Title 76

#### WILDLIFE AND FISHERIES

#### Part VII. Fish and Other Aquatic Life

#### Chapter 9. Aquaculture

#### §905. Domesticated Aquatic Organisms

A. Procedures for Approving a New Species of Domesticated Aquatic Organism

1. An application to consider a new aquatic species shall be made to the Louisiana Department of Wildlife and Fisheries, Assistant Secretary, Office of Fisheries. The applicant should include the following information:

- a. American Fisheries Society approved species and common name(s);
- b. intended use or uses;
- c. biology, including environmental tolerances, diseases and life history;
- d. sources of broodstock;
- e. references;
- f. location of proposed facility; and
- g. design and operation of proposed aquaculture facility.

2. The assistant secretary will forward the application to the appropriate fisheries division. Freshwater species will be handled by the Inland Fisheries Division and saltwater species will be handled by the Marine Fisheries Division, regardless of where the species is proposed to be raised.

3. The division administrator may request the applicant to provide additional information.

4. The division will convene a technical committee of individuals, including enforcement division representation, with sufficient expertise to consider the application.

5. The technical committee will be responsible for evaluating all relevant information regarding the species. The committee will consider approving a new aquatic species by evaluating the potential negative risks the new species might have on native species, their habitats, and human health. The committee will also consider mitigation measures that reduce risk. The committee will ultimately provide a recommendation to the Assistant Secretary, Office of Fisheries to either deny the applicant's request or approve the request with mitigating requirements.

6. The assistant secretary, through a deliberative process, will determine whether to recommend to the secretary that the species be approved as a domesticated aquatic organism and under what mitigating measures. If approved by the secretary, a formal request will be made to the Louisiana Wildlife and Fisheries Commission in the form of a Notice of Intent.

B. The following is a list of "Domesticated Aquatic Organisms" approved for use in aquaculture:

1. shadow bass (*Ambloplites ariommus*) not exceeding a maximum total length of 3 inches;
2. white bass (*Morone chrysops*) not exceeding a maximum total length of 3 inches;
3. yellow bass (*Morone mississippiensis*) not exceeding a maximum total length of 3 inches;
4. crappie (*Pomoxis spp.*) not exceeding a maximum total length of 3 inches;
5. bream (*Lepomis spp.*) not exceeding a maximum total length of 3 inches;
6. spotted bass (*Micropterus punctulatus*) not exceeding maximum total length of 10 inches;
7. striped bass (*Morone saxatilis*) not exceeding a maximum total length of 10 inches;
8. largemouth bass (*Micropterus salmoides*) of any size;
9. hybrid striped bass (*Morone saxatilis x Morone chrysops*) or (*Morone saxatilis x Morone mississippiensis*) of any size;
10. coppernose bluegill (*Lepomis macrochirus purpurescens*) of any size;
11. hybrid bream limited to a bluegill (*Lepomis macrochirus*) and green sunfish (*L. cyanellus*) cross or a redear sunfish (*L. microlophus*) and bluegill (*L. macrochirus*) cross of any size;
12. carp (*Cyprinus carpio*) of any size;
13. freshwater drum (*Aplodinotus grunniens*) of any size;
14. buffaloes (*Ictiobus spp.*) of any size;
15. golden shiner (*Notemigonus crysoleucas*) of any size;
16. fathead minnow (*Pimephales promelas*) of any size;
17. mosquito fish (*Gambusia affinis*) of any size;
18. red drum (*Sciaenops ocellatus*);
19. triploid grass carp (*Ctenopharyngodon idella*); See LAC 76:VII.901;
20. tilapia (*Oreochromis aurea*, *O. niloticus*, *O. mossambicus* and *O. urolepis hornorum*); See LAC 76:VII.903.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:327.A.(2) and R.S. 56:411.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 34:2679 (December 2008), amended LR 35:1139 (June 2009).

Robert J. Barham  
Secretary

0906#031

## RULE

### Department of Wildlife and Fisheries Office of Fisheries

#### Invasive Noxious Aquatic Plants (LAC 76:VII.1101)

The Department of Wildlife and Fisheries, Office of Fisheries hereby amends the rules to control, eradicate, and prevent the spread or dissemination within the state of Louisiana all invasive noxious aquatic plants that pose a threat to the wildlife or fisheries resources of the state. Intended amendments to the Prohibited Invasive Noxious Aquatic Plant list include reorganization of the list, update species names, deletion of two species and the addition of eight species.

#### Title 76

#### WILDLIFE AND FISHERIES

#### Part VII. Fish and Other Aquatic Life

#### Chapter 11. Invasive Noxious Aquatic Plants

#### §1101. Invasive Noxious Aquatic Plants

A. Definitions. The following words and phrases for purposes of these regulations shall have the meaning ascribed to them in this Section, unless the context wherein the particular word or phrase is used clearly indicates a different meaning.

*Department*—the Louisiana Department of Wildlife and Fisheries or an authorized employee of the Department.

*Invasive Noxious Aquatic Plant Permit*—the official document that identifies the terms of and allows for the importation, transportation or possession of any of the listed prohibited aquatic plants.

*Listed Plant*—any of the listed invasive noxious aquatic plants.

*Permittee*—person or organization that possesses a valid permit to possess, import or transport invasive noxious aquatic plants. A permittee may represent himself, a business, corporation or organization. The permittee is responsible for compliance with all stipulations in the permit.

*Secretary*—the Secretary of the Louisiana Department of Wildlife and Fisheries.

B. Importation and Transportation of Invasive Noxious Aquatic Plants; Permit Required

1. No person shall at any time import or cause to be transported into the jurisdiction of the state of Louisiana, from any other state or country any of the invasive noxious aquatic plants identified below, without first obtaining an Invasive Noxious Aquatic Plant permit from the department and complying with all rules, regulations, and conditions associated therein. Prohibited invasive noxious aquatic plants:

- a. *Aeschynomene fluitans* (giant sensitive fern);
- b. *Casuarina spp.* (Australian pine);
- c. *Egeria densa* (Brazilian elodea);
- d. *Eichhornia azurea* (rooting water hyacinth);
- e. *Elodea canadensis* (elodea);
- f. *Hydrilla verticillata* (hydrilla);
- g. *Hygrophila polysperma* (Indian swampweed);
- h. *Ipomoea aquatica* (water spinach);
- i. *Lagarosiphon major* and *Lagarosiphon muscoides* (African elodea);
- j. *Landoltia punctata* (giant duckweed);
- k. *Limnophila sessiliflora* (Asian marshweed);
- l. *Lythrum salicaria* (purple loosestrife);
- m. *Marsilea minuta* and *Marsilea mutica* (water clovers);
- n. *Melaleuca quinquenervia* (kapok tree);
- o. *Monochoria hastata* and *Monochoria vaginalis* (false pickerelweeds);
- p. *Myriophyllum spicatum* (Eurasian watermilfoil);
- q. *Najas marina* (marine naiad) and *Naja minor* (slender naiad);
- r. *Nymphoides cristata*, *Nymphoides indica*, and *Nymphoides peltata* (little floating hearts);
- s. *Ottelia alismoides* (duck lettuce);
- t. *Panicum repens* (torpedograss);
- u. *Pistia stratiotes* (water lettuce);
- v. *Rotala rotundifolia* (roundleaf toothcup);
- w. *Salvinia spp.* (salvinia);
- x. *Trapa natans* (water chestnut);
- y. *Solanum tampicense* (aquatic soda apple);
- z. *Urochloa mutica* (paragrass).

C. Permits may be issued by the Secretary of the Department of Wildlife and Fisheries or his designee for the importation, transportation or possession of any invasive noxious aquatic plant for the purpose of conducting scientific investigations.

1. Application Requirements

a. Individuals wishing to import, transport, or possess any listed plant for the purpose of conducting scientific investigations in Louisiana must first request an Invasive Noxious Aquatic Plant permit from the department through an application form furnished by the department.

b. Site visits will be made to inspect the facility and determine if all possible safeguards have been taken to prevent escape into the natural habitat.

c. The department shall ensure that the applicant is furnished with a copy of the terms and conditions pertaining to the importation, transportation or possession of any of the listed plants.

d. The secretary or his designee shall notify the applicant in writing as to whether or not the permit has been granted and if not, the reasons therefore. In the event of disapproval, applicants may re-apply after meeting department requirements.

2. Terms and Conditions of Permit

a. Permits are not transferable from person to person or from site location to site location.

b. Specimens of the listed plant(s) shall be handled deliberately, cautiously, and in controlled settings to avoid contamination of state habitats.

c. Specimens shall be processed and grown within the confines of controlled facilities (growth chambers, greenhouses, laboratories, etc.).

d. Reproductive parts of plants (seeds, tubers, roots, etc.) that are collected in the field shall be transported in double zip lock bags such that the reproductive part cannot escape en route.

e. A U.S. Department of Agriculture (USDA) permit shall be required to import and possess specimens of prohibited plants from other countries and such plants shall be sent through a USDA inspection center at a port of entry as described by the USDA permit.

f. Before processing, the plants or plant parts shall be stored in a locked office or laboratory. Only qualified individuals shall have access to these materials.

g. Any part of the plant used for molecular work shall be subjected to a departmentally approved procedure that will render the plant material incapable of further growth or reproduction.

h. Specimens to be used for environmental studies (e.g., climate, shading, etc.) shall be grown in pots within the confines of growth chambers or greenhouses.

i. After the experimental work is completed, all plant materials, and the soil within the growth pots, and the pots shall be sterilized in some manner (e.g., autoclaved) to kill any remaining seeds or living plant material to render the plant material incapable of further growth or reproduction.

j. All collections by and shipments to or from the permittee shall be reported to the department one week prior to said collections or shipments. Information to be included shall be the type of material (whole plant, leaves, seeds, etc.) and the quantity collected or shipped.

k. The disposition of the plant material at the conclusion of the experimental work shall be reported to the department.

l. Personnel from the department shall have the authority to inspect the facility and operation with 24 hours notice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:328 (C).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Office of Fisheries, LR 33:536 (March 2007), amended LR 35:1140 (June 2009).

Robert J. Barham  
Secretary

0906#032

# Notices of Intent

## NOTICE OF INTENT

Department of Environmental Quality  
Office of the Secretary  
Legal Affairs Division

Control of Emissions of Nitrogen Oxides  
(LAC 33:III.2201 and 2202)(AQ305)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air regulations, LAC 33:III.2201 and 2202 (Log #AQ305).

This rule provides a new contingency plan to further control emissions of nitrogen oxides (NO<sub>x</sub>) from facilities located in the Baton Rouge area (i.e., the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge) and the Region of Influence (i.e., the parishes of East Feliciana, Pointe Coupee, St. Helena, and West Feliciana) in the event that EPA notifies the department that the Baton Rouge area has exceeded the 1997 8-hour National Ambient Air Quality Standard (NAAQS) for ozone and contingency has been triggered. This rule amends the contingency plan to extend the applicability of the regulations by two months. There is evidence that many of the past violations of the ozone standard have occurred outside the ozone season defined in LAC 33:III.Chapter 22 (i.e., before May 1 and after September 31). It is expected that extending the use of NO<sub>x</sub> controls beyond the ozone season may prevent some of these violations. This rule also modifies definitions and makes revisions to clarify the regulations. This rule is also a revision to the Louisiana State Implementation Plan for air quality. The basis and rationale for this rule are to provide a necessary element in the State Implementation Plan revisions that will occur when the Baton Rouge Nonattainment Area is redesignated to attainment and to continue to provide protection of human health and welfare. This rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

### Title 33

### ENVIRONMENTAL QUALITY

#### Part III. Air

#### Chapter 22. Control of Emissions of Nitrogen Oxides (NO<sub>x</sub>)

##### §2201. Affected Facilities in the Baton Rouge Nonattainment Area and the Region of Influence

A. – A.1. ...

2. The provisions of this Chapter shall apply during the *ozone season*, as defined in Subsection B of this Section, of each year.

3. ...

B. Definitions. Unless specifically defined in this Subsection or in LAC 33:III.111 or 502, the words, terms, and abbreviations in this Chapter shall have the meanings commonly used in the field of air pollution control. For purposes of this Chapter only, the following definitions shall supersede any definitions in LAC 33:III.111 or 502.

\* \* \*

*Affected Facility*—any facility within the Baton Rouge Nonattainment Area with one or more affected point sources that collectively emit or have the potential to emit 25 tons or more per year of NO<sub>x</sub>, unless exempted in Subsection C of this Section, or any facility within the Region of Influence with one or more affected point sources that collectively emit or have the potential to emit 50 tons or more per year of NO<sub>x</sub>, unless exempted in Subsection C of this Section. Exempt sources in a facility shall not be included in the determination of whether it is an affected facility.

\* \* \*

*Low Ozone Season Capacity Factor Boiler or Process Heater/Furnace*—a boiler or process heater/furnace in the Baton Rouge Nonattainment Area with a maximum rated capacity greater than or equal to 40 MMBtu/hour and an ozone season average heat input less than or equal to 12.5 MMBtu/hour, using a 30-day rolling average; or in the Region of Influence with a maximum rated capacity greater than or equal to 80 MMBtu/hour and an ozone season average heat input less than or equal to 25 MMBtu/hour, using a 30-day rolling average.

\* \* \*

*Ozone Season*—except as provided in LAC 33:III.2202, the period May 1 to September 30, inclusive, of each year.

\* \* \*

*Thirty-Day (30-Day) Rolling Average*—an average, calculated daily, of all hourly data for the last 30 days for an affected point source. At the beginning of each ozone season, use one of the following methods to calculate the initial 30-day averages:

a. calculate and record the average of all hourly readings taken during the first day of the ozone season for day one, then the average of all hourly readings taken during the first and second days for day two, and so on until the first full 30-day average falling entirely within the ozone season is reached;

b. calculate and record a 30-day rolling average for day one of the ozone season using the hourly readings from that day and the previous 29 calendar days, for the second day of the ozone season using the readings from the first two ozone season days and the preceding 28 calendar days, and so on until the first full 30-day average falling entirely within the current ozone season is reached; or

c. calculate and record a 30-day rolling average for day one of the ozone season using the hourly readings from that day and the last 29 days of the previous ozone season, for the second day of the ozone season using the readings

from the first two current ozone season days and the last 28 days of the previous ozone season, and so on until the first full 30-day average falling entirely within the current ozone season is reached.

\* \* \*

C. Exemptions. The following categories of equipment or processes located at an affected facility within the Baton Rouge Nonattainment Area or the Region of Influence are exempted from the provisions of this Chapter:

1. – 3.b. ...

4. *low ozone season capacity factor boilers and process heater/furnaces*, as defined in Subsection B of this Section, in accordance with Paragraph H.11 of this Section;

5. – 5.g. ...

6. any point source, in accordance with Paragraph H.12 of this Section, that operates less than 3 hours per day, using a 30-day rolling average, during the ozone season;

7. – 14. ...

15. any affected point source that is required to meet a more stringent state or federal NO<sub>x</sub> emission limitation, whether by regulation or permit. In this case, the monitoring, reporting, and recordkeeping requirements shall be in accordance with the more stringent regulation or permit and not this Chapter. If the applicable regulation or permit does not specify monitoring requirements, the provisions of Subsection H of this Section shall apply;

16. – 17. ...

18. any affected point source firing fuel oil during a period of emergency and approved by the administrative authority;

19. – 20. ...

D. Emission Factors

1. The following tables list NO<sub>x</sub> emission factors that shall apply to affected point sources located at affected facilities in the Baton Rouge Nonattainment Area or the Region of Influence.

Table D-1A NO <sub>x</sub> Emission Factors for Sources in the Baton Rouge Nonattainment Area		
Category	Maximum Rated Capacity	NO <sub>x</sub> Emission Factor <sup>a</sup>
Electric Power Generating System Boilers:		
Coal-fired	>= 40 to <80 MMBtu/Hour	0.50 pound/MMBtu
	>= 80 MMBtu/Hour	0.21 pound/MMBtu
Number 6 Fuel Oil-fired	>= 40 to <80 MMBtu/Hour	0.30 pound/MMBtu
	>= 80 MMBtu/Hour	0.18 pound/MMBtu
All Others (gaseous or liquid)	>= 40 to <80 MMBtu/Hour	0.20 pound/MMBtu
	>= 80 MMBtu/Hour	0.10 pound/MMBtu
Industrial Boilers:		

Table D-1A NO <sub>x</sub> Emission Factors for Sources in the Baton Rouge Nonattainment Area		
Category	Maximum Rated Capacity	NO <sub>x</sub> Emission Factor <sup>a</sup>
All Fuels	>= 40 to <80 MMBtu/Hour	0.20 pound/MMBtu
	>= 80 MMBtu/Hour	0.10 pound/MMBtu
Process Heater/Furnaces:		
Ammonia Reformers	>= 40 to <80 MMBtu/Hour	0.30 pound/MMBtu
	>= 80 MMBtu/Hour	0.23 pound/MMBtu
All Others	>= 40 to <80 MMBtu/Hour	0.18 pound/MMBtu
	>= 80 MMBtu/Hour	0.08 pound/MMBtu
Stationary Gas Turbines:		
Peaking Service, Fuel Oil-fired	>= 5 to <10 MW	0.37 pound/MMBtu
	>= 10 MW	0.30 pound/MMBtu
Peaking Service, Gas-fired	>= 5 to <10 MW	0.27 pound/MMBtu
	>= 10 MW	0.20 pound/MMBtu
All Others	>= 5 to <10 MW	0.24 pound/MMBtu <sup>b</sup>
	>= 10 MW	0.16 pound/MMBtu <sup>c</sup>
Stationary Internal Combustion Engines:		
Lean-burn	>= 150 to <320 Hp	10 g/Hp-hour
	>= 320 Hp	4 g/Hp-hour
Rich-burn	>= 150 to <300 Hp	2 g/Hp-hour
	>= 300 Hp	2 g/Hp-hour

<sup>a</sup> based on the higher heating value of the fuel

<sup>b</sup> equivalent to 65 ppmv (15 percent O<sub>2</sub>, dry basis) with an F factor of 8710 dscf/MMBtu

<sup>c</sup> equivalent to 43 ppmv (15 percent O<sub>2</sub>, dry basis) with an F factor of 8710 dscf/MMBtu

Table D-1B NO <sub>x</sub> Emission Factors for Sources in the Region of Influence		
Category	Maximum Rated Capacity	NO <sub>x</sub> Emission Factor <sup>a</sup>
Electric Power Generating System Boilers:		
Coal-fired	>= 80 MMBtu/Hour	0.21 pound/MMBtu
Number 6 Fuel Oil-fired	>= 80 MMBtu/Hour	0.18 pound/MMBtu
All Others (gaseous or liquid)	>= 80 MMBtu/Hour	0.10 pound/MMBtu
Industrial Boilers:		
All Fuels	>= 80 MMBtu/Hour	0.10 pound/MMBtu
Process Heater/Furnaces:		
Ammonia Reformers	>= 80 MMBtu/Hour	0.23 pound/MMBtu
All Others	>= 80 MMBtu/Hour	0.08 pound/MMBtu
Stationary Gas Turbines:		
Peaking Service, Fuel Oil-fired	>= 10 MW	0.30 pound/MMBtu
Peaking Service, Gas-fired	>= 10 MW	0.20 pound/MMBtu
All Others	>= 10 MW	0.16 pound/MMBtu <sup>b</sup>
Stationary Internal Combustion Engines:		
Lean-burn	>= 1500 Hp	4 g/Hp-hour
Rich-burn	>= 300 Hp	2 g/Hp-hour

<sup>a</sup> all factors are based on the higher heating value of the fuel

<sup>b</sup> equivalent to 43 ppmv (15 percent O<sub>2</sub>, dry basis) with an F factor of 8710 dscf/MMBtu

2. – 8. ...

9. On a day that is designated as an Ozone Action Day by the department, a facility shall not fire an affected point source with Number 6 fuel oil or perform testing of emergency and training combustion units without prior approval of the administrative authority. If a facility has received approval from the administrative authority for a plan to use Number 6 fuel oil, this is considered prior approval for purposes of this Paragraph.

E. – E.1.c.ii. ...

d. An owner or operator that chooses to use the provisions of Clause E.1.b.i or E.1.c.i of this Section to demonstrate compliance in an averaging plan shall include in the submitted plan a description of the actions that will be taken if any under-controlled unit is operated at more than 10 percent above its averaging capacity ( $HI_i$  in Subparagraph E.1.a of this Section). Such actions may include a comparison of the total current emissions from all units in the averaging plan to the total emissions that would result if the units in the plan were operated in accordance with Subsection D of this Section, other reviews, reporting, and/or mitigation actions. If the department determines that the actions are not adequate to prevent an increase of emissions over the total emissions that would result if the units were operated in accordance with Subsection D of this Section, the department shall require that the averaging plan and/or the action plan be revised or shall disallow the use of the averaging plan.

e. ...

f.  $NO_x$  reductions accomplished after 1997 through curtailments in capacity of a point source with a permit revision or by permanently shutting down the point source may be included in the averaging plan. In order to include a unit with curtailed capacity or that has been permanently shut down in the averaging plan, the old averaging capacity, determined from the average of the two ozone seasons prior to the capacity curtailment or shutdown, or such other two-year period as the department may approve, shall be used to calculate the unit's contribution to the term FL. The new averaging capacity, determined from the enforceable permit revision, shall be multiplied by the owner-assigned limit to calculate the contribution of the curtailed unit to the cumulative emission factor for the averaging group. For a shut down source, the contribution to the cumulative emission factor shall be zero.

g.  $NO_x$  reductions from post 1997 modifications to exempted point sources, as defined in Subsection C of this Section, may be used in a facility-wide averaging plan. If a unit exempted in Subsection C of this Section is included in an averaging plan, the term  $R_{ij}$  in Equation E-1 shall be established, in accordance with Subsection G of this Section, from a stack test or other determination of emissions approved by the department that was performed before the  $NO_x$  reduction project was implemented, and the term  $R_{ai}$  shall be established from the owner-assigned emission factor in accordance with Subparagraph E.1.a of this Section. For the case of a point source exempted by Paragraph C.15 of this Section, if the permit limits were established after 1997 and were not required by a state or federal regulation, the source may be included in an averaging plan, with the term  $R_{ij}$  taken from Table D-1A or D-1B in Paragraph D.1 of this Section.

E.1.h. – G.4. ...

5. Compliance with the emission specifications of Subsection D or E of this Section for affected point sources operating without CEMS or PEMS shall be demonstrated while operating at the maximum rated capacity, or as near thereto as practicable. The stack tests shall be performed according to emissions testing guidelines located on the department website under Air Quality Assessment/Emission Testing Program. Three minimum 1-hour tests, or three minimum 20-minute tests for turbines, shall be performed and the following methods from 40 CFR Part 60, Appendix A shall be used:

G.5.a. – H.1.b.v. ...

vi. alternatively to Clauses H.1.b.ii-iv of this Section, the owner or operator may request approval from the administrator for an alternative monitoring plan that uses a fuel-oxygen operating window to demonstrate continuous compliance of  $NO_x$  and CO. In order to continuously demonstrate compliance with the  $NO_x$  limits of Subsection D or E of this Section, the owner or operator shall implement procedures to operate the boiler on or inside the fuel and oxygen lines that define the operating window. The corners of the window shall be established during the initial compliance test required by Subsection G of this Section or similar testing at another time. The details for use of an alternative monitoring plan shall be submitted in the permit application or in the optional compliance plan described in Paragraph F.7 of this Section. The plan shall become part of the facility permit and shall be federally enforceable.

2. – 2.b.v. ...

vi. alternatively to Clauses H.2.b.ii-iv of this Section, the owner or operator may request approval from the department for an alternative monitoring plan that uses a fuel-oxygen operating window, or other system, to demonstrate continuous compliance of  $NO_x$  and CO. In order to continuously demonstrate compliance with the  $NO_x$  limits of Subsection D or E of this Section, the owner or operator shall implement procedures to operate the process heater/furnace on or inside the fuel and oxygen lines that define the operating window. The corners of the window shall be established during the initial compliance test required by Subsection G of this Section or similar testing at another time. The details for use of an alternative monitoring plan shall be submitted in the permit application or in the optional compliance plan described in Paragraph F.7 of this Section. The plan shall become part of the facility permit and shall be federally enforceable.

3. – 9.b. ...

10. All affected point sources that rely on periodic stack testing to demonstrate continuous compliance and use a catalyst to control  $NO_x$  emissions shall be tested to show compliance with the emission factors of Subsection D or E or this Section after each occurrence of catalyst replacement. Portable analyzers shall be acceptable for this check. Documentation shall be maintained on-site, if practical, of the date, the person doing the test, and the test results. Documentation shall be made available for inspection upon request.

11. The owner or operator of any *low ozone season capacity factor boiler or process heater/furnace*, as defined in Subsection B of this Section, for which an exemption is granted shall install, calibrate, and maintain a totalizing fuel

meter, with instrumentation approved by the department, and keep a record of the fuel input for each affected point source during each ozone season. If the average Btu-per-ozone season-hour limit is exceeded, the owner or operator of any boiler or process heater/furnace covered under this exemption shall include the noncompliance in the written report that is due in accordance with Paragraph I.2 of this Section. If the average Btu-per-ozone season-hour limit is exceeded, the exemption shall be permanently withdrawn. Within 90 days after receipt of notification from the administrative authority of the loss of the exemption, the owner or operator shall submit a permit modification detailing how the facility will meet the applicable emission factor as soon as possible, but no later than 24 months, after exceeding the ozone season limit. Included with this permit modification, the owner or operator shall submit a schedule of increments of progress for the installation of the required control equipment. This schedule shall be subject to the review and approval of the department.

12. The owner or operator of any affected point source that is granted an exemption in accordance with Paragraph C.6 of this Section shall install, calibrate, and maintain a nonresettable, elapsed run-time meter to record the operating time in order to demonstrate compliance during the ozone season. If the average operating hours-per-day limit is exceeded the owner or operator shall include the noncompliance in the written report that is due in accordance with Paragraph I.2 of this Section. If the average operating hours-per-day limit is exceeded, the exemption shall be permanently withdrawn. Within 90 days after receipt of notification from the administrative authority of the loss of the exemption, the owner or operator shall submit a permit modification detailing how the facility will meet the applicable emission factor as soon as possible, but no later than 24 months, after exceeding the limit. Included with this permit modification, the owner or operator shall submit a schedule of increments of progress for the installation and operation of the required control equipment. This schedule shall be subject to the review and approval of the department.

13. Elapsed run-time and fuel meters, oxygen, diluents, and CO monitors, and other such instrumentation required by this Section shall be performance tested according to the vendor's recommendations, but not less frequently than once per year. Testing records shall be maintained according to Paragraph I.3 of this Section.

14. Any unit with a permit that requires more stringent testing than this Chapter requires shall comply with the permit requirements rather than this Chapter.

15. Continuous demonstration of compliance with fuel, oxygen concentration, and other parameter limits shall be on a 30-day rolling average basis.

#### I. Notification, Recordkeeping, and Reporting Requirements

1. ...

2. The owner or operator of an affected point source granted an exemption in accordance with any part of Subsection C of this Section or required to demonstrate continuous compliance in accordance with Subsection H of this Section shall submit a written report within 90 days of the end of each ozone season to the administrative authority of any noncompliance of the applicable limitations of

Subsection D or E of this Section. The required information may be included in reports provided to the administrative authority to meet other requirements, so long as the report meets the deadlines and content requirements of this Paragraph. The report shall include the following information:

- a. a description of the noncompliance;
- b. a statement of the cause of the noncompliance;
- c. the anticipated time that the noncompliance is expected to continue or, if it has been corrected, the duration of the period of noncompliance; and
- d. the steps taken to prevent recurrence of the noncompliance.

I.3. – J.1. ...

2. The owner or operator shall complete all initial compliance testing, specified by Subsection G of this Section, for equipment modified with NO<sub>x</sub> reduction controls or a NO<sub>x</sub> monitoring system to meet the provisions of this Chapter within 60 days of achieving normal production rate or after the end of the shake down period, but in no event later than 180 days after initial start-up. Required testing to demonstrate the performance of existing, unmodified equipment shall be completed in a timely manner, but by no later than November 1, 2005.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:290 (February 2002), repromulgated LR 28:451 (March 2002), amended LR 28:1578 (July 2002), LR 30:748 (April 2004), LR 30:1170 (June 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2441 (October 2005), LR 33:2088 (October 2007), LR 34:71 (January 2008), LR 35:

#### §2202. Contingency Plan

A. This Section shall become effective only in the event that the United States Environmental Protection Agency (EPA) determines and notifies the department in accordance with Section 175A(d) of the Clean Air Act as amended [42 USC 7511(b)(2)] that the Baton Rouge area has violated the 8-hour ozone National Ambient Air Quality Standard (NAAQS), and that the department must put this contingency plan into effect.

B. Definition of *Ozone Season*. In the event of notification from EPA in accordance with Subsection A of this Section, the definition of *ozone season* in LAC 33:III.2201.B will be the period April 1 to October 31, inclusive, of each year.

C. Effective Dates. An owner or operator of a source subject to this Chapter shall comply with this Section as expeditiously as possible, but not later than the first day of the next ozone season after determination and notification by the EPA in accordance with Subsection A of this Section.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 30:1170 (June 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 35:

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

A public hearing will be held on July 28, 2009, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference

Room, 602 N. Fifth Street, Baton Rouge, LA 70802. The hearing will also be for the revision to the State Implementation Plan (SIP) to incorporate this rule. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Donald Trahan at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ305. Such comments must be received no later than August 4, 2009, at 4:30 p.m., and should be sent to Donald Trahan, Attorney Supervisor, Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3398 or by e-mail to donald.trahan@la.gov. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ305. This regulation is available on the Internet at [www.deq.louisiana.gov/portal/tabid/1669/default.aspx](http://www.deq.louisiana.gov/portal/tabid/1669/default.aspx).

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Herman Robinson, CPM  
Executive Counsel

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Control of Emissions of Nitrogen Oxides**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There are no expected implementation costs or savings to state or local governmental units from the proposed rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

No effect on revenue collections of state or local governmental units is expected as a result of the proposed rule.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

There will be no immediate costs or benefits from this rule revision. The provision in LAC 33:III.2202 will be enforced only upon notification from the EPA that the attainment area in which the facility is located violated the 1997 8-hour National Ambient Air Quality Standard (NAAQS) for ozone and contingency measures are therefore triggered. If contingency measures are triggered the only cost to the facility would be to continue NOx reduction measures for the extended period of time. These NOx reduction control measures are work practices which reduce emissions of NOx and are only currently required during ozone season. This rule revision simply extends the time the control measures will be in place based on the triggering of

the contingency measures. Therefore, the cost of extending the time they are required would be minimal.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There will be no impact from the proposed action on competition or employment in the public or private sector.

Herman Robinson, CPM  
Executive Counsel  
0906#037

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

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

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Environmental Quality regulations, LAC 33:V.105, 321, 1513, 1529, 3005, and 3105; VII.715 and 1101; IX.5903; and XI.1121 (Log #MM010).

This rule corrects errors that have been found in the Environmental Quality regulations. Language found to be redundant or not required by federal regulations has been deleted, some wording has been restructured, and instances of improper regulation citations have been corrected. The rule also deletes information in LAC 33:V.3015, Table 2, to reflect a change in 40 CFR 261, Appendix VIII. Maintenance of the regulations is part of the responsibility of the department. An aspect of maintenance is for the department to correct errors when they are found. The basis and rationale for this rule are to maintain the regulations that protect the environment and public health of the state, as authorized by the Environmental Quality Act. This rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

**Title 33**

**ENVIRONMENTAL QUALITY**

**Part V. Hazardous Waste and Hazardous Materials**

**Subpart 1. Department of Environmental  
Quality—Hazardous Waste**

**Chapter 1. General Provisions and Definitions  
§105. Program Scope**

These rules and regulations apply to owners and operators of all facilities that generate, transport, treat, store, or dispose of hazardous waste, except as specifically provided otherwise herein. The procedures of these regulations also apply to the denial of a permit for the active life of a hazardous waste management facility or TSD unit under LAC 33:V.706. Definitions appropriate to these rules and regulations, including *solid waste* and *hazardous waste*, appear in LAC 33:V.109. Wastes that are excluded from regulation are found in this Section.

A. – D.7.b....

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

D.7.d. – N.5. ...

O. Variances from Classification as a Solid Waste

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

O.1.a. – P.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790 (November 1988), LR 15:181 (March 1989), LR 16:47 (January 1990), LR 16:217, LR 16:220 (March 1990), LR 16:398 (May 1990), LR 16:614 (July 1990), LR 17:362, 368 (April 1991), LR 17:478 (May 1991), LR 17:883 (September 1991), LR 18:723 (July 1992), LR 18:1256 (November 1992), LR 18:1375 (December 1992), amended by the Office of the Secretary, LR 19:1022 (August 1993), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:813, 831 (September 1996), amended by the Office of the Secretary, LR 23:298 (March 1997), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:564, 567 (May 1997), LR 23:721 (June 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:952 (August 1997), LR 23:1511 (November 1997), LR 24:298 (February 1998), LR 24:655 (April 1998), LR 24:1093 (June 1998), LR 24:1687, 1759 (September 1998), LR 25:431 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:268 (February 2000), LR 26:2464 (November 2000), LR 27:291 (March 2001), LR 27:706 (May 2001), LR 29:317 (March 2003), LR 30:1680 (August 2004), amended by the Office of Environmental Assessment, LR 30:2463 (November 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2451 (October 2005), LR 32:605 (April 2006), LR 32:821 (May 2006), LR 33:450 (March 2007), LR 33:2097 (October 2007), LR 34:614 (April 2008), LR 34:1008 (June 2008), LR 34:1893 (September 2008), LR 34:2395 (November 2008), LR 35:

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

#### **§321. Modification of Permits**

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

B. – C.3.a.iii. ...

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

3.b. – 11.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:433 (August 1987), LR 15:378 (May 1989), LR 16:614 (July 1990), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1691 (September 1998), LR 25:435 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2466 (November 2000), LR 28:1000 (May 2002), LR 29:319 (March 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2430, 2454 (October 2005), LR 33:2100 (October 2007), LR 34:619 (April 2008), LR 35:

### **Chapter 15. Treatment, Storage, and Disposal Facilities**

#### **§1513. Contingency Plan and Emergency Procedures**

A. – A.4. ...

B. Content of Contingency Plan

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

B.2. – F.9.g. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 16:614 (July 1990), LR 18:1256 (November 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2472 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2456 (October 2005), LR 33:2104 (October 2007), LR 34:993 (June 2008), LR 35:

#### **§1529. Operating Record and Reporting Requirements**

A. – D.10. ...

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

1. – 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 15:378 (May 1989), LR 16:220 (March 1990), LR 16:399 (May 1990), LR 17:658 (July 1991), LR 18:1256 (November 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 22:832 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1695 (September 1998), LR 25:437 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1799 (October 1999), LR 26:278 (February 2000), LR 26:2473 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 32:827 (May 2006), LR 33:2104 (October 2007), LR 34:623 (April 2008), LR 34:993 (June 2008), LR 34:1895 (September 2008), LR 35:

**Chapter 30. Hazardous Waste Burned in Boilers and Industrial Furnaces**

**§3005. Permit Standards for Burners**

A. – E.5....

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

E.5.a.i. – I....

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 18:1375 (December 1992), amended LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:822 (September 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2483 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2463 (October 2005), LR 33:2113 (October 2007), LR 34:628 (April 2008), LR 34:1015 (June 2008), LR 35:

**Chapter 31. Incinerators**

**§3105. Applicability**

A. – E. ...

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 11:1139 (December 1985), LR 13:433 (August 1987), LR 14:424 (July 1988), LR 15:737 (September 1989), LR 16:399 (May 1990), LR 18:1256 (November 1992), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 21:944 (September 1995), LR 22:835 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:318 (February 1998), LR 24:681 (April 1998), LR 24:1741 (September 1998), LR 25:479 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:301 (March 2001), LR 28:1004 (May 2002), LR 29:323 (March 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 32:830 (May 2006), LR 34:629 (April 2008), LR 34:1898 (September 2008), LR 34:2396 (November 2008), LR 35:

**Part VII. Solid Waste**

**Subpart 1. Solid Waste Regulations**

**Chapter 7. Solid Waste Standards**

**Subchapter A. Landfills, Surface Impoundments, Landfarms**

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

A. – D.3.i. ...

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

D.3.k. – F.3.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), repromulgated LR 19:1316 (October 1993), amended by the Office of the Secretary, LR 24:2251 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2525 (November 2000), repromulgated LR 27:704 (May 2001), amended LR 30:1676 (August 2004), amended by the Office of Environmental Assessment, LR 30:2025 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR

31:2493 (October 2005), LR 33:1058 (June 2007), LR 33:2147 (October 2007), LR 35:

**Chapter 11. Solid Waste Beneficial Use and Soil Reuse §1101. Applicability**

A. ...

B. Sewage sludge (including domestic septage) shall be generated, treated, processed, composted, blended, mixed, prepared, transported, used, or disposed of in accordance with LAC 33:IX.Chapter 73.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1086 (June 2007), LR 35:

**Part IX. Water Quality**

**Subpart 2. The Louisiana Pollutant Discharge Elimination System (LPDES) Program**

**Chapter 59. Secondary Treatment under the LPDES Program**

**§5903. Definitions**

A. Terms used in this Chapter are defined as follows.

\* \* \*

*Effluent Concentrations Consistently Achievable through Proper Operation and Maintenance*—for a given pollutant parameter:

a. ...

b. a 7-day average value equal to 1.5 times the value derived under LAC 33:IX.5903.A.*Effluent Concentrations Consistently Achievable through Proper Operation and Maintenance*.a.

*Facilities Eligible for Treatment Equivalent to Secondary Treatment*—treatment works shall be eligible for consideration for effluent limitations described for treatment equivalent to secondary treatment (LAC 33:IX.5911), if:

a. the BOD<sub>5</sub> and TSS effluent concentrations consistently achievable through proper operation and maintenance (LAC 33:IX.5903.A.*Effluent Concentrations*

Consistently Achievable through Proper Operation and Maintenance) of the treatment works exceed the minimum level of the effluent quality set forth in LAC 33:IX.5905.A and B;

b. – c. ...  
mg/L—milligrams per liter.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:232 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 35:

## Part XI. Underground Storage Tanks

### Chapter 11. Financial Responsibility

#### §1121. Use of the Motor Fuels Underground Storage

##### Tank Trust Fund

The administrative authority was authorized by R.S. 30:2194-2195.10 to receive and administer the Motor Fuels Underground Storage Tank Trust Fund (MFUSTTF) to provide financial responsibility for owners and/or operators of underground motor fuel storage tanks. Under the conditions described in this Section, an owner and/or operator who is eligible for participation in the MFUSTTF may use this mechanism to partially fulfill the financial responsibility requirements for eligible USTs. To use the MFUSTTF as a mechanism for meeting the requirements of LAC 33:XI.1107, the owner and/or operator must be an *eligible participant* as defined in Subsection A of this Section. In addition, the owner and/or operator must use one of the other mechanisms described in LAC 33:XI.1111, 1113, 1115, 1117, 1119, 1123, or 1125 to demonstrate financial responsibility for the amounts specified in Subsection C of this Section, which are the responsibility of the participant and not covered by the MFUSTTF.

A. – B.4.a. ...

b. Upon recommendation by the advisory board to exceed the 20 percent limitation as provided in Subparagraph B.4.a of this Section, the administrative authority shall provide written notification to the environmental legislative oversight committees listing the project name, the project location, and the amount of the project that exceeds the 20 percent limitation.

C. – D.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and specifically 2195-2195.10.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 17:658 (July 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2561 (November 2000), LR 27:521 (April 2001), amended by the Office of Environmental Assessment, LR 31:1577 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 34:864 (May 2008), LR 35:

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

A public hearing will be held on July 28, 2009, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Donald Trahan at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by MM010. Such comments must be received no later than August 4, 2009, at 4:30 p.m., and should be sent to Donald Trahan, Attorney Supervisor, Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3398 or by e-mail to donald.trahan@la.gov. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of MM010. This regulation is available on the Internet at [www.deq.louisiana.gov/portal/tabid/1669/default.aspx](http://www.deq.louisiana.gov/portal/tabid/1669/default.aspx).

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Baratavia Street, Lockport, LA 70374; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Herman Robinson, CPM  
Executive Counsel

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Miscellaneous Corrections

### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no implementation costs or savings to state or local government units as a result of the rule.

### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of state or local governmental units from the proposed rule.

### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No significant effect on competition or employment from this proposed rule is anticipated.

Herman Robinson, CPM  
Executive Counsel  
0906#038

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Office of the Governor  
Board of Examiners of Certified Shorthand Reporters**

Continuing Education (LAC 46:XXI.603 and 607)

In accordance with the Administrative Procedures Act, R.S. 49:950 et seq. Notice is hereby given that the Louisiana Board of Examiners of Certified Shorthand Reporters proposes to adopt changes made to the continuing education procedure.

**Title 46  
PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part XXI. Certified Shorthand Reporters**

**Chapter 6. Continuing Education**

**§603. Continuing Education Credits**

A. Beginning January 1, 1991, and thereafter, each certificate holder shall be required to obtain at least 12 continuing education credits during each two-year continuing education cycle. Each continuing education cycle shall consist of two consecutive years beginning January 1 of the odd-numbered year and ending December 31 of the even-numbered year, inclusive. The board shall award one continuing education credit for each half hour of instruction time. Beginning January 1, 2010, two of the required 12 continuing education credits shall be instructions pertaining to court reporting ethics awareness.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.37:2554 and 2557.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Certified Shorthand Reporters, LR 17:32 (January1991), amended LR 20:412 (April 1994), amended by the Office of the Governor, Board of Examiners of Certified Shorthand Reporters, LR 33:2419 (November 2007), LR 35:

**§607. Maintenance of Record**

A. ...

B. On or before December 31 of each odd-numbered calendar year, each reporter issued a certificate by the board shall submit or cause to be submitted to the board in written record of continuing education credits earned by the reporter for the preceding two calendar years.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.37:2554.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Certified Shorthand Reporters, LR 17:33 (January1991), amended LR 17:578 (June 1991), LR 19:1539 (December 1993), amended by the Office of the Governor, Board of Examiners of Certified Shorthand Reporters, LR 33:2419 (November 2007), LR 35:

The proposed Rule changes have no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Interested persons may submit comments in writing through the close of business on July 10, 2009, to Suzanne Stinson, Louisiana Board of Examiners of Certified Shorthand Reporters, P. O. Box 3257, Baton Rouge, LA 70821-3257.

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Continuing Education**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rule changes 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.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is no estimated effect on revenue collections of state or local governmental units associated with this proposed rule changes.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups associated with the proposed rule changes.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There is no direct significant effect on competition and employment. All Court Reporters will be subject to the proposed continuing education rule changes.

Perrell Fuselier  
Chairman  
0906#007

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

Claiming Rule (LAC 35:XI.9913)

Editors Note: This Emergency Rule, originally printed on page 137 of the January 20, 2009, issue of the *Louisiana Register*, is being repromulgated to correct errors.

The Louisiana State Racing Commission hereby gives notice that it intends to amend LAC 35:XI.9913 "Claiming Rules and Engagements" to promote the health and well being of race horses, to guard the integrity of the sport, and to adjust to changes in nation-wide standards in the realm of equine veterinary practices, health, and medication.

**Title 35**

**HORSE RACING**

**Part XI. Claiming Rules and Engagements**

**Chapter 99. Claiming Rule**

**§9913. Vesting of Title; Tests**

A. ...

B. The successful claimant may request on the claim blank at the time he makes his claim that the horse be tested for the presence of equine infectious anemia via a Coggins test and/or erythropoietin and/or darbepoietin.

1. ...

2. Should the test for recombinant erythropoietin and/or darbepoietin prove positive, it shall be cause for a horse to be returned to his previous owner and barred from racing in the state of Louisiana until such time as the horse tests negative.

C. Additionally, if such erythropoietin and/or darbepoietin positive result is found, the claimant, claimant's trainer or claimant's authorized agent shall have 48 hours in which to request the claim be declared invalid, such request to be made in writing to the stewards.

D. - E.1. ...

2. Blood samples drawn to detect by immunoassay recombinant erythropoietin and/or darbepoietin shall be sent to the Louisiana State Racing Commission's state chemist.

F. Notwithstanding any inconsistent provision of the Part, a horse shall not be subject to disqualification from the race and from any share of the purse in the race, and the trainer of the horse shall not be subject to application of trainer's responsibility based upon the finding by the laboratory that erythropoietin and/or darbepoietin was present in the sample taken from that horse.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142 and R.S. 4:148.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:446 (December 1976), amended LR 3:42 (January 1977), LR 4:285 (August 1978), LR 5:136 (June 1979), amended by the Office of the Governor, Division of Administration, Racing Commission LR 30:1476 (July 2004), LR 31:3160 (December 2005), LR 35:

**Family Impact Statement**

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

The domicile office of the Louisiana State Racing Commission is open from 8 a.m. to 4:30 p.m., and interested parties may contact Charles A. Gardiner III, executive director, or Larry Munster, assistant executive director, at (504) 483-4000 (holidays and weekends excluded), or by fax (504) 483-4898, for more information.

All interested persons may submit written comments relative to this proposed Rule for a period up to 20 days exclusive of weekends and state holidays from the date of this publication, to 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5100.

Charles A. Gardiner III  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Claiming Rule**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There are no anticipated costs or savings to state or local governmental units associated with this Rule, other than one-time costs directly associated with its publication.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is no estimated effect on revenue collections of local and state governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

This action modifies the Rule promulgated in 2005 by eliminating the words "antibody/antibodies" from the Rule. The antibody test is now obsolete due to inaccurate results and testing kits are considered antiquated.

Additionally, a test for the substance itself has been developed thereby rendering the test of the antibodies obsolete  
IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment.

Charles A. Gardiner, III  
Executive Director  
0906#074

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

**Jockey Fee Schedule (LAC 46:XLI.725)**

The Louisiana State Racing Commission hereby gives notice in accordance with law that it intends to amend the following Rule.

**Title 46  
PROFESSIONAL AND OCCUPATIONAL  
STANDARDS  
Part XLI. Horseracing Occupations  
Chapter 7. Jockeys and Apprentice Jockeys  
§725. Jockey Fee Schedule**

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

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

B. ...

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

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

(February 1990), amended by the Office of the Governor, Division of Administration, Racing Commission, LR 35:

### Family Impact Statement

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

The domicile office of the Louisiana State Racing Commission is open from 8 a.m. to 4:30 p.m., and interested parties may contact Charles A. Gardiner III, executive director, or Larry Munster, assistant executive director, at (504) 483-4000 (holidays and weekends excluded), or by fax (504) 483-4898, for more information. All interested persons may submit written comments relative to this proposed Rule for a period up to 20 days exclusive of weekends and state holidays from the date of this publication to 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5100.

Charles A. Gardiner III  
Executive Director

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Jockey Fee Schedule

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will have no impact on costs (savings) to state or local governmental units.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will have no impact 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 a positive economic benefit to the jockeys employed in Louisiana. The last jockey mount fee adjustment was in November 1978. Losing mount fees in races with purses \$3,500 and over have been adjusted to keep up with the national average. All additional jockey mount fees will be paid by the horse owners and not the state.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will likely have a positive impact on competition and employment, as it may bring better quality jockeys to this state.

Charles A. Gardiner III  
Executive Director  
0906#073

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

### NOTICE OF INTENT

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

Super Hi-Five (LAC 35:XIII.11801)

The Louisiana State Racing Commission hereby gives notice in accordance with law that it intends to add the following new rule to primarily benefit patrons by allowing a new form of exotic wagering.

### Title 35 HORSE RACING Part XIII. Wagering

#### Chapter 118. Super Hi-Five

##### §11801. Super Hi-Five

A. The Super Hi-Five is a form of pari-mutuel wagering which consists of combining five horses in a single race that will subsequently finish first, second, third, fourth and fifth in that race. It is not a parlay and has no connection with or relationship to any other pari-mutuel pool, except as otherwise set forth below.

B. The net pool and payout shall be determined in the following manner.

1. The net pool is awarded to ticket holders who selected first-, second-, third-, fourth-, and fifth-place finishers in order.

2. If there are no such wagers, then the net pool shall be carried over and paid out in the following manner:

a. the entire pool shall be carried over and made available on the next qualifying Super Hi-Five race determined by the racetrack hosting the race, and is combined with and added to the net pool for such qualifying race, and made available for payout, or, and, unless:

b. the racetrack hosting race can, at its option, announce a consolation pool, 25 percent of the net pool, will be offered. The offering of a consolation pool shall be announced at least 72 hours in advance of the first day upon which a consolation pool will be offered, and shall be publicized. Notice of the consolation pool may be announced, by way of example, via press release, internet, simulcast signal, and on-track announcements.

C. If there are no ticket holders who selected first-, second-, third-, fourth-, and fifth-place finishers in order and a consolation pool is offered, then a consolation pool shall be established. The consolation pool shall be equal to 25 percent of the net Pool as determined by the racetrack hosting the race and distributed as a single price pool among those ticket holders and paid out as follows:

1. to those who selected first-, second-, third-, and fourth-place finishers in order. If there are no such wagers, then:

2. to those who selected first-, second-, and third-place finishers in order. If there are no such wagers, then:

3. to those who selected first-, second-place finishers in order. If there are no such wagers, then:

4. to those who selected the first-place finishers;

5. if there are no such wagers, then the consolation pool shall carryover and be added to the net pool for the next qualifying Super Hi-Five race as determined by the racetrack hosting the race to be paid out in accordance with this rule.

D. The minimum number of wagering interests required to offer Super Hi-Five wagering shall be seven actual starters.

E. The racetrack hosting the race on which the Super Hi-Five wager is offered may cancel the Super-Hi Five wagering for any reason, including by way of example only any circumstance necessitating scratches or other events reducing the field of competition. Super Hi-Five wagers on races in which wager has been cancelled or the race declared

no contest shall be refunded. Any carryover pool added to the net pool of a Super Hi-Five race which is cancelled shall carry forward to be added to the next qualifying Super Hi-Five wagering pool.

F. If less than five horses finish and the race is declared official by the stewards or judges, then pay off shall be made to ticket holders selecting the finishing horses in order of finish as provided above.

G. In the event of a dead heat in any finishing position, the wagers be paid as follows.

1. All wagers selecting either of the dead-heat positions with the correct non-dead-heat position shall be winners and share in the pool.

2. Payouts will be calculated by splitting the pool equally between each winning combination, then dividing split pools by the number of winning tickets. A dead heat will produce separate and distinct payouts respective to each winning combination.

H. If there is any accumulated carryover pool on the final day of a meet by the racetrack hosting races on which Super Hi-Five wagering was offered, the accumulated carryover pool shall be combined with the final net pool of the final Super-Hi-Five race of the meet to be paid out in accordance with this rule. If no ticket is sold that would require a distribution under this rule, then the pool shall be held separately and carried over to be offered on the first Super Hi-Five race scheduled by the racetrack hosting the race, and thereafter, to be distributed in accordance with this rule.

I. If a horse is scratched or declared a nonstarter, no further tickets may be issued designating such horse and all Super Hi-five tickets previously issued designating such horse shall be refunded and the money deducted from the gross Super Hi-Five pool.

J. For purposes of statutory deductions and commissions, the net amount does not include any amounts carried over from any previous Super Hi-Five pool.

K. The racetrack hosting the races may participate with other racetracks in a Super Hi-Five national carryover pool. In such instances, the carryover pool, if any, may be carried out to, or in from, another racetrack's Super Hi-Five pool.

L. Races in which Super Hi-Five pools are conducted shall be approved by the commission and shall be clearly designated in the program.

M. This rule shall be prominently displayed throughout the betting area of each track and distributed to patrons upon request.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 35:

#### **Family Impact Statement**

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

The domicile office of the Louisiana State Racing Commission is open from 8 a.m. to 4:30 p.m., and interested parties may contact Charles A. Gardiner III, executive director, or Larry Munster, assistant executive director, at (504) 483-4000 (holidays and weekends excluded), or by fax (504) 483-4898, for more information. All interested persons may submit written comments relative to this proposed Rule for a period up to 20 days exclusive of weekends and state

holidays from the date of this publication to 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5100.

Charles A. Gardiner III  
Executive Director

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Super Hi-Five**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rule change will have no impact on costs (savings) to state or local governmental units.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

As a result of this action, self-generated revenue collections may potentially increase due to increased wagering activity. Any potential increase in self-generated revenue collections is indeterminable, but not anticipated to be significant.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule change will have no impact on directly affected persons or non-governmental groups.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed rule change will have no effect on competition or employment.

Charles A. Gardiner III  
Executive Director  
0906#072

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Department of Health and Hospitals Board of Medical Examiners**

Athletic Trainers—Certification  
(LAC 46:XLV.Chapter 31)

Notice is hereby given, in accordance with R.S. 49:953, that the Louisiana State Board of Medical Examiners (the "Board"), pursuant to the authority vested in the Board by the Louisiana Athletic Trainers Law, R.S. 37:3301-3312, the board's administrative rulemaking authority under the Louisiana Medical Practice Act, Rev. Stat. §§37:1261-1292, and in accordance with the provisions of the Administrative Procedure Act, intends to amend its rules governing athletic trainers, LAC 46:XLV, Subpart 2, Chapter 31, §§3107, 3109, 3113, 3129, 3133, 3135, 3137, 3139, 3141, 3143, 3145, 3147, 3151, 3153 and 3162. The proposed Rule amendments: eliminate a grandfather clause that has been extinguished by the passage of time; remove certain deadlines imposed upon applicants and the board respecting application filing and processing and simplify the application process; clarify the examination, administration and passing score deemed acceptable by the board for certification consideration; and remove no longer relevant provisions and update and effect certain technical amendments to the existing rules. The proposed Rule amendments are set forth below.

**Title 46**  
**PROFESSIONAL AND OCCUPATIONAL**  
**STANDARDS**

**Part XLV. Medical Professions**

**Subpart 2. Licensure and Certification**

**Chapter 31. Athletic Trainers**

**Subchapter B. Requirements and Qualifications for Certification**

**§3107. Requirements for Certification**

A. - A.1 - 3.c ...

4. take and successfully pass the written and/or oral certification examination administered by the NATA or its successor;

5. ...

6. satisfy the procedures and requirements for application and examination provided by this Chapter; and

A.7. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1281 and 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:522 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:235 (February 2004), LR 35:

**§3109. Alternative Qualification**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:523 (August 1986), repealed by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:

**Subchapter C. Board Approval**

**§3113. Applicability of Approval**

A. - C. ...

D. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:523 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:

**Subchapter D. Application**

**§3129. Application Procedure**

A. ...

B. Application forms and instructions pertaining thereto may be obtained from the board.

C. An application for certification under this Chapter shall include:

1. proof, documented in a form satisfactory to the board, that the applicant possesses the qualifications for certification set forth in this Chapter; and

2. such other information and documentation as are referred to or specified in this Chapter, or as the board may require, to evidence qualification for certification.

D. The board may refuse to consider any application which is not complete in every detail, including submission of every document required by the application form. The board may, in its discretion, require a more detailed or complete response to any request for information set forth in the application form as a condition to consideration of an application.

E. Each application submitted to the board shall be accompanied by the applicable fee, as provided in Chapter 1 of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1281 and 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:524 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 24:938 (May 1998), LR 30:235 (February 2004), LR 35:

**Subchapter F. Examination**

**§3133. Designation of Examination**

A. The examination administered and accepted by the board pursuant to R.S. 37:3303.B is the National Athletic Trainers Association Certification Examination developed by the NATA and the Professional Examination Service, or their successor(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:524 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:

**§3135. Eligibility for Examination**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:524 (August 1986), repealed by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:

**§3137. Dates, Places of Examination**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:525 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 24:938 (May 1998), repealed LR 35:

**§3139. Administration of Examination**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:525 (August 1986), repealed by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:

**§3141. Subversion of Examination Process**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:525 (August 1986), repealed by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:

**§3143. Finding of Subversion**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:525 (August 1986), repealed by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:

**§3145. Sanctions for Subversion of Examination**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:525 (August 1986), repealed by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:

**§3147. Passing Score**

A. An applicant will be deemed to have successfully passed the examination if he attains a score equivalent to that required by the NATA or its Professional Examination Service as a passing score; provided, however, that with respect to any given administration of the examination, the board may determine to accept a lower score as passing. Applicants for certification shall be required to authorize the NATA and the Professional Examination Service to release their testing scores to the board each time the applicant-examinee attempts the examination according to the procedures for such notification established by the NATA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:525 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:

**§3151. Lost, Stolen, or Destroyed Examinations**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:526 (August 1986), repealed by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:

**Subchapter G. Certificate Issuance, Termination, Renewal, Reinstatement**

**§3153. Issuance of Certificate**

A. If the qualifications, requirements, and procedures prescribed or incorporated by §3107 and §3129 are met to the satisfaction of the board, the board shall issue to the applicant a certificate evidencing the applicant's certification as a certified athletic trainer in the state of Louisiana.

B. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:526 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:

**§3162. Restricted Certificates**

A. - F.1.a. ...

b. the permit holder is issued a certificate to practice athletic training pursuant to §3153 of this Chapter; or

c. the holder of a permit issued under §3162.F fails to appear for and take the certification examination for which he has registered.

F.2. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, 37:1270, 37:3301-3312 and 37:3303.A(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 28:830 (April 2002), amended LR 35:

**Family Impact Statement**

The proposed Rule amendments have no known impact on family, formation, stability or autonomy, as described in R.S. 49:972.

Interested persons may submit written data, views, arguments, information or comments on the proposed Rule amendments to Rita Arceneaux, Confidential Executive Assistant, Louisiana State Board of Medical Examiners, at P.O. Box 30250, New Orleans, LA, 70190-0250 (630 Camp Street, New Orleans, LA, 70130), (504) 568-6820, Ex. 242. She is responsible for responding to inquiries concerning the proposed Rule amendments. Written comments will be accepted until 4 p.m., July 20, 2009. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument or public hearing must be made in writing and received by the board within 20 days of the date of this Notice.

Robert L. Marier, M.D.  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

**RULE TITLE: Athletic Trainers—Certification**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Other than the rule publication costs, the total of which are estimated to be \$861 during FY 2009, it is not anticipated that the proposed rule amendments will result in any material costs to the Board of Medical Examiners or any state or local governmental unit.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no estimated effects on the Board's revenue collections or that of any other state or local governmental unit anticipated from the proposed rule amendments.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

It not anticipated that the proposed rule amendments will have any material effect on costs of athletic trainers, applicants or governmental groups. It is anticipated that the proposed rule amendments will result in an unquantifiable reduction in workload and paperwork of applicants, attributable to application simplification, filing, and processing.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that the proposed rule amendments will have any material impact on competition or employment in either the public or private sector.

Robert L. Marier, M.D.  
Executive Director  
0906#036

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Board of Nursing**

Criminal History Record Information  
(LAC 46:XLVII.3330)

The Louisiana State Board of Nursing proposes to amend LAC 46:XLVII.3330, Criminal History Record in accordance with R.S. 37:918, R.S. 37:919 and R.S. 37:920 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The proposed amendment to LAC 46:XLVII.3330 extends the criteria pertaining to criminal history record. This revision is being recommended due to the number of applicants whose fingerprints are returned from the Department of Public Safety as inadequate or unreadable, whereby the applicant or licensee must submit a second set of fingerprints and fees. Current rules provide that the processing of the license is not delayed awaiting these reports. This proposed Rule will provide a basis by which the applicant or licensee may be denied licensure or renewal of said license issued pending the fingerprint results if the applicant or licensee fails to submit necessary information, fees and/or fingerprint.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part XLVII. Nurses**

**Subpart 2. Registered Nurses**

**Chapter 33. General**

**§3330. Criminal History Record Information**

A. - I. ...

J. If the fingerprints are returned from the Department of Public Safety as inadequate or unreadable, the applicant, or licensee must submit a second set of fingerprints and fees, if applicable, for submission to the Department of Public Safety.

K. If the applicant or licensee fails to submit necessary information, fees, and or fingerprints, the applicant or licensee may be denied licensure on the basis of an incomplete application or, if licensed, denied renewal, until such time as the applicant or licensee submits the applicable documents and fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:920.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 26:1614 (August 2000), amended LR 30:2829 (December 2004), LR 35:

**Family Impact Statement**

In compliance with R.S. 49:953 and 974, the following Family Impact Statement of the proposed amendments to rules is provided. There should be no adverse effect on the stability of the family; the authority and rights of parents regarding the education and supervision of their children; or the ability of the family or a local government to perform the function as contained in the proposed Rule amendments.

Interested persons may submit written comments on the proposed rules until 5 p.m., July 10, 2009 to Barbara L.

Morvant, Executive Director, 17373 Perkins Road, Baton Rouge, LA 70808.

Barbara L. Morvant, MN, RN  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Criminal History Record Information**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There is no anticipated increase or decrease in expenditures or savings due to this proposed revision except for the cost of printing which is estimated at \$300.00 in FY 2009-2010.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The Louisiana State Police will generate approximately \$13,575 in additional fees per year based on an estimated 300 applicants paying \$45.25 each for a second fingerprint criminal background search by the Department of Public Safety (300 applicants X \$45.25 fee = \$13,575.)

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Applicants for nursing licenses that have their fingerprints rejected by the Louisiana Department of Public Safety because the prints are inadequate or unreadable will pay an additional fee of \$45.25 to the Department of Public Safety if such applicants submit a second set of fingerprints to the Department of Public Safety more than 90 days after the Department received the applicant's first set of fingerprints. The Board of Nursing estimates that 300 nursing applicants, or 10 percent of the 3,000 applicants per year submit inadequate or unreadable prints to the Department of Public Safety. Applicants who fail to submit acceptable fingerprints, necessary information, and required fees may be denied licensure by the Board. The Board of Nursing will deny license renewals of current license holders who do not have adequate or readable prints on file until such persons submit adequate and readable fingerprints to the Louisiana Department of Public Safety.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The Board of Nursing may deny initial licenses and license renewals for nurses failing to submit adequate or readable fingerprints to the Louisiana Department of Public Safety. Such individuals will be unable to work as nurses without a license granted by the Louisiana Board of Nursing.

Barbara Morvant  
Executive Director  
0906#048

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

Early and Periodic Screening, Diagnosis and Treatment  
Dental Program Reimbursement Rate Increase  
(LAC 50:XV.6903 and 6905)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC

50:XV.6903 and 6905 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This 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 repromulgated the rules governing the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program, including those provisions governing coverage and reimbursement of dental services, in order to adopt these Rules in a codified format for inclusion in the *Louisiana Administrative Code (Louisiana Register, Volume 29, Number 2)*. As a result of additional funds being allocated during the 2007 Regular Session of the Louisiana Legislature, the bureau increased the reimbursement fees for designated dental services (*Louisiana Register, Volume 34, Number 6*).

During the 2008 Regular Session of the Louisiana Legislature, additional funds were allocated for the EPSDT Dental Program. As a result of the allocation of these funds, the department promulgated an Emergency Rule to amend the provisions governing the EPSDT Dental Program to include coverage of two additional dental procedures and increase the reimbursement fees for designated dental services. The bureau also discontinued the lifetime service limits for certain endodontic procedures to provide clarification regarding covered services (*Louisiana Register, Volume 35, Number 1*). This proposed Rule is being promulgated to continue the provisions of the December 24, 2008 Emergency Rule.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part XV. Services for Special Populations**

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

#### **Chapter 69. Dental Services**

#### **§6903. Covered Services**

A. The dental services covered under the EPSDT Dental Program are organized in accordance with the following 11 categories:

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

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

3. restorative services which include amalgam restorations, composite restorations, stainless steel and polycarbonate crowns, pins, core build-ups, pre-fabricated posts and cores and unspecified restorative procedures;

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

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

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

7. maxillofacial prosthetics service, which is a fluoride gel carrier;

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

9. oral and maxillofacial surgery services which include non-surgical extractions, surgical extractions, other surgical procedures, alveoloplasty, surgical incision, temporomandibular joint (TMJ) procedure and other unspecified repair procedures;

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

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

B. Effective November 1, 2006, the following dental procedures are included in the service package for coverage under the EPSDT Dental Program:

1. prefabricated stainless steel crown with resin window; and

2. appliance removal (not by the dentist who placed the appliance), including removal of archbar.

C. Effective December 24, 2008, the following dental procedures are included in the service package for coverage under the EPSDT Dental Program:

1. resin-based composite restorations (1-4 or more surfaces), posterior; and

2. extraction, coronal remnants—deciduous tooth.

D. Effective December 24, 2008, the service limit of six root canals per lifetime is discontinued.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:175 (February 2003), amended LR 30:252 (February 2004), LR 31:667 (March 2005), LR 33:1138 (June 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

#### **§6905. Reimbursement**

A. - A.2. ...

B. Effective for dates of service on and after December 24, 2008, the reimbursement fees for EPSDT dental services are increased to the following percentages of the 2008 National Dental Advisory Service Comprehensive Fee Report 70th percentile rate, unless otherwise stated in this Chapter. The reimbursement fees are increased to:

1. 80 percent for all oral examinations;

2. 75 percent for the following services:

a. radiograph—periapical and panoramic film;

b. prophylaxis;

c. topical application of fluoride or fluoride varnish;

and

d. removal of impacted tooth;

3. 70 percent for the following services:

a. radiograph—complete series, occlusal film and bitewings;

b. sealant, per tooth;

- c. space maintainer, fixed (unilateral or bilateral);
  - d. amalgam, primary or permanent;
  - e. resin-based composite and resin-based composite crown, anterior;
  - f. prefabricated stainless steel or resin crown;
  - g. core buildup, including pins;
  - h. pin retention;
  - i. prefabricated post and core, in addition to crown;
  - j. extraction or surgical removal of erupted tooth;
  - k. removal of impacted tooth (soft tissue or partially bony); and
  - l. palliative (emergency) treatment of dental pain; and
  - m. surgical removal of residual tooth roots; and
4. 65 percent for the following dental services:
- a. oral/ facial images;
  - b. diagnostic casts;
  - c. re-cementation of space maintainer or crown;
  - d. removal of fixed space maintainer;
  - e. all endodontic procedures except:
    - i. unspecified endodontic procedure, by report;
  - f. all periodontic procedures except:
    - i. unspecified periodontal procedure, by report;
  - g. fluoride gel carrier;
  - h. all fixed prosthodontic procedures except:
    - i. unspecified fixed prosthodontic procedure, by report;
  - i. tooth re-implantation and/or stabilization of accidentally evulsed or displaced tooth;
  - j. surgical access of an unerupted tooth;
  - k. biopsy of oral tissue;
  - l. transseptal fiberotomy/supra crestal fiberotomy;
  - m. alveoloplasty in conjunction with extractions;
  - n. incision and drainage of abscess;
  - o. occlusal orthotic device;
  - p. suture of recent small wounds;
  - q. frenulectomy;
  - r. fixed appliance therapy; and
  - s. all adjunctive general services except:
    - i. palliative (emergency) treatment of dental pain, and
    - ii. unspecified adjunctive procedure, by report.

C. The reimbursement fees for all other covered dental procedures shall remain at the rate on file as of December 23, 2008.

C.1. - NOTE Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:1138 (June 2007), amended LR 34:1032 (June 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

#### **Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for

responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Wednesday, July 29, 2009 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Alan Levine  
Secretary

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Early and Periodic Screening, Diagnosis and Treatment—Dental Program Reimbursement Rate Increase**

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in an estimated increase in expenses to the state of \$1,986,559 for FY 08-09, \$4,720,925 for FY 09-10, and \$4,862,552 for FY 10-11. It is anticipated that \$820 (\$410 SGF and \$410 FED) will be expended in FY 08-09 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on the "hold harmless" Federal Medical Assistance Percentage (FMAP) as allowed in the American Recovery and Reinvestment Act of 2009 (72.47%). Additional federal funds are projected to be available in the current year through December 2010. To the extent that DHH utilizes federal match, up to the allowable match (estimated to be 80.01% in the current year) for the eligibility period (through December 2010), state general fund match could be reduced. In FY 10-11, the FMAP is projected to drop below the hold harmless rate by an unknown amount. In the event of this decrease, the state general funds will increase to the federally required match.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$5,228,752 for FY 08-09, \$12,427,366 for FY 09-10, and \$12,800,187 for FY 10-11. It is anticipated that \$410 will be expended in FY 08-09 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on the "hold harmless" Federal Medical Assistance Percentage (FMAP) as allowed in the American Recovery and Reinvestment Act of 2009 (72.47%). Additional federal funds are projected to be available in the current year through December 2010. To the extent that DHH utilizes federal match, up to the allowable match (estimated to be 80.01% in the current year) for the eligibility period (through December 2010), state general fund match could be reduced. In FY 10-11, the FMAP is projected to drop below the hold harmless rate by an unknown amount. In the event of this decrease, the state general funds will increase to the federally required match.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule, which continues the provisions of the December 24, 2008 emergency rule, proposes to include coverage of two additional dental procedures, increase the reimbursement fees for designated dental services and discontinue the lifetime service limits for certain endodontic procedures (approximately

80 service types). It is anticipated that implementation of this proposed rule will increase expenditures in the Medicaid Program by approximately \$7,214,491 for FY 08-09, \$17,148,291 for FY 09-10 and \$17,662,739 for FY 10-11.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this rule will have no effect on competition and employment.

Jerry Phillips  
Medicaid Director  
0906#064

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

### NOTICE OF INTENT

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

#### Office for Citizens with Developmental Disabilities

#### Home and Community-Based Services Waivers Children's Choice Money Follows the Person Rebalancing Demonstration (LAC 50:XXI.Chapter 111)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amends LAC 50:XXI.Chapter 111 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This 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 repromulgated all of the rules governing the Children's Choice Waiver in a codified format for inclusion in the Louisiana Administrative Code, including the provisions governing the availability and allocation of waiver opportunities (*Louisiana Register*, Volume 28, Number 9). The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities promulgated an Emergency Rule to amend the provisions of the September 20, 2002 Rule governing the Children's Choice Waiver to clarify the general provisions of the waiver and to adopt provisions for the allocation of additional waiver opportunities within the Children's Choice Waiver for the Money Follows the Person Rebalancing Demonstration Program (*Louisiana Register*, Volume 35 Number 1). The Money Follows the Person Rebalancing Demonstration is a transition program that targets individuals using qualified institutional services and moves them to home and community-based long-term care services. This proposed Rule is being promulgated to continue the provisions of the January 20, 2009 Emergency Rule.

#### Title 50

#### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part XXI. Home and Community-Based Services

#### Waivers

#### Subpart 9. Children's Choice

#### Chapter 111. General Provisions

#### §11101. Introduction

A. The Children's Choice (CC) Waiver is a home and community-based services (HCBS) program that offers

supplemental support to children with developmental disabilities who currently live at home with their families, or who will leave an institution to return home.

1. - 3.e. Repealed.

B. The Children's Choice Waiver is an option offered to children on the Developmental Disabilities Request for Services Registry (DDRSR) for the New Opportunities Waiver (NOW) Program. Families may choose to accept a Children's Choice waiver offer or remain on the request for services registry (RFSR).

C. Children's Choice Waiver participants are eligible for all medically necessary Medicaid services in addition to Children's Choice Waiver services.

D. The number of participants in the Children's Choice Waiver is contingent upon available funding.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 26:2793 (December 2000), repromulgated for LAC, LR 28:1983 (September 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 35:

#### §11103. Recipient Qualifications

A. The Children's Choice Waiver is available to children who:

1. are from birth through age 18;
2. are on the Developmental Disabilities Request for Services Registry;
3. meet all of the financial and non-financial Medicaid eligibility criteria for home and community-based services (HCBS) waiver services:
  - a. income less than three times the Supplemental Security Income (SSI) amount for the child (excluding consideration of parental income);
  - b. resources less than the SSI resource limit of \$2,000 for a child (excluding consideration of parental resources);
  - c. SSI disability criteria;
  - d. intermediate care facility for the developmentally disabled (ICF/DD) level of care criteria; and
  - e. all other non-financial requirements such as citizenship, residence, Social Security number, etc.

B. The plan of care must be sufficient to assure the health and welfare of the waiver applicant/participant in order to be approved for waiver participation or continued participation.

C. Children who reach their nineteenth birthday while participating in the Children's Choice Waiver will transfer with their waiver opportunity to an HCBS waiver serving adults who meet the criteria for an ICF/DD level of care.

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

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

#### §11105. Money Follows the Person Rebalancing Demonstration

A. The Money Follows the Person (MFP) Rebalancing Demonstration is a federal demonstration program awarded by the Centers for Medicare and Medicaid Services to the Department. The demonstration is a transition program that

targets individuals using qualified institutional services and moves them to home and community-based long-term care services.

1. For purposes of these provisions, a qualified institution is a hospital, nursing facility, or intermediate care facility for people with developmental disabilities.

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

1. Children with a developmental disability must:

a. be from birth through 18 years of age;

b. occupy a licensed, approved and enrolled Medicaid nursing facility bed for at least six months or have been hospitalized in an acute care hospital for six months with referral for nursing facility placement; and

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

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

C. Children who participate in the demonstration are not required to have a protected request date on the DDRFSR. Children who are under the age of three years old and are not on the DDRFSR will be added to the DDRFSR at the age of three, or older, with a protected date that is the date of their approval to participate.

D. Children's Choice Waiver opportunities created using the MFP methodology do not create a permanent funding shift. These opportunities shall be funded on an individual basis for the purpose of this demonstration program only.

E. All other Children's Choice Waiver provisions apply to the Money Follows the Person Rebalancing Demonstration.

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

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

#### **§11107. Allocation of Waiver Opportunities**

A. The order of entry in the Children's Choice Waiver is first come, first served from a statewide list arranged by date of application for the Developmental Disabilities Request for Services Registry for the New Opportunities Waiver, with the exception of the Money Follows the Person Rebalancing Demonstration waiver opportunities which are allocated to demonstration participants only.

1. Families shall be given a choice of accepting an opportunity in the Children's Choice Waiver or remaining on the DDRFSR for the NOW.

B. An additional 20 Children's Choice Waiver opportunities shall be created for the Money Follows the Person Rebalancing Demonstration Program and must only be filled by a demonstration participant. No alternate may utilize an MFP Rebalancing Demonstration opportunity.

1. The MFP Rebalancing Demonstration will stop allocation of opportunities on September 30, 2011.

a. In the event that an MFP Rebalancing Demonstration opportunity is vacated or closed before September 30, 2011, the opportunity will be returned to the MFP Rebalancing Demonstration pool and an offer will be made based upon the approved program guidelines.

b. In the event that an MFP Rebalancing Demonstration opportunity is vacated or closed after September 30, 2011, the opportunity will cease to exist.

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

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

#### **Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability, and autonomy as described in R.S. 49:972 by enabling children to transition from institutional settings and maintain access to specialized services to meet their needs in a home and community-based setting.

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, Louisiana 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Wednesday, July 29, 2009 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Alan Levine  
Secretary

#### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Home and Community-Based Services Waivers Children's Choice Money Follows the Person Rebalancing Demonstration**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that the implementation of this proposed Rule will result in an estimated increase in expense to the state of approximately \$103 for FY 08-09 and an estimated programmatic savings to the state of \$27,332 for FY 09-10 and \$62,342 for FY 10-11. It is anticipated that \$820 (\$410 SGF and \$410 FED) will be expended in FY 08-09 for the state's administrative expense for promulgation of this proposed Rule and the final Rule. The numbers reflected above are based on the "hold harmless" Federal Medical Assistance Percentage (FMAP) as allowed in the American Recovery and Reinvestment Act of 2009 (72.47%). Additional federal funds are projected to be available in the current year through December 2010. To the extent that DHH utilizes federal match, up to the allowable match (estimated to be 80.01% in the current year) for the eligibility period (through December 2010), state general fund match could be reduced. In FY 10-11, the FMAP is projected to drop below the hold harmless rate by an unknown amount. In the event of this decrease, the state general funds will increase to the federally required match.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed Rule will reduce federal revenue collections by approximately,

\$399 for FY 08-09, \$71,949 FY 09-10 and \$164,108 for FY 10-11. It is anticipated that \$410 will be collected in FY 08-09 for the federal administrative expenses for promulgation of this proposed Rule and the final Rule. The numbers reflected above are based on the "hold harmless" Federal Medical Assistance Percentage (FMAP) as allowed in the American Recovery and Reinvestment Act of 2009 (72.47%). Additional federal funds are projected to be available in the current year through December 2010. To the extent that DHH utilizes federal match, up to the allowable match (estimated to be 80.01% in the current year) for the eligibility period (through December 2010), state general fund match could be reduced. In FY 10-11, the FMAP is projected to drop below the hold harmless rate by an unknown amount. In the event of this decrease, the state general funds will increase to the federally required match.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This Rule proposes to clarify the general provisions of the Children's Choice Waiver and to adopt provisions for the allocation of additional waiver opportunities for the Money Follows the Person Rebalancing Demonstration Program (20 additional Children's Choice Waiver slots). It is anticipated that implementation of this proposed Rule will reduce program expenditures in the Children's Choice Waiver Program by approximately \$1,116 for FY 08-09, \$99,281 FY 09-10 and \$226,450 for FY 10-11.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition and employment.

Jerry Phillips  
Medicaid Director  
0906#066

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

Medicaid Eligibility  
Home and Community-Based Services  
Income Disregard  
(LAC 50:III.10305)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:III.10305 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

In compliance with the directives of the Family Opportunity Act of 2005, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing implemented the Family Opportunity Act Medicaid Program to provide health care coverage to children with disabilities who are not eligible for Supplemental Security Income (SSI) benefits due to excess income or resources (*Louisiana Register*, Volume 34, Number 8). The August 20, 2008 Rule also established provisions governing income disregards for recipients in the Family Opportunity Act Medicaid Program.

Section 1902(a)(10)(A)(ii)(VI) of Title XIX of the Social Security Act authorized states to provide medical assistance

to individuals who would be eligible for benefits under the Medicaid State Plan if they were in a nursing facility or an intermediate care facility for persons with developmental disabilities (ICF/DD) and who, but for the provision of home and community-based services (HCBS) under a waiver, would require institutionalization. Eligibility for home and community-based services is currently limited to individuals whose gross income is below a special income level.

In compliance with the provisions of §1902, the Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend the provisions governing eligibility for home and community-based services to establish an income disregard that shall allow for eligibility as though the individual was a resident of a nursing facility or ICF/DD. These provisions will increase the potential for individuals with income above the special income level to become financially eligible for home and community-based services.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part III. Eligibility**

**Subpart 5. Financial Eligibility**

**Chapter 103. Income**

**§10305. Income Disregards**

A. ...

B. During the eligibility determination process for home and community-based services, an individual shall be considered eligible under the Medicaid State Plan as though the individual was a resident in a nursing facility or intermediate care facility for persons with developmental disabilities (ICF/DD) and an income disregard shall be applied to gross income over the special income level.

1. The special income level used to determine financial eligibility for long-term care services (nursing facility, ICF/DD, and home and community-based services) is three times the Supplemental Security Income federal benefit rate.

2. Gross income may exceed the special income level but cannot be more than the highest Medicaid facility rate (nursing or ICF/DD, as applicable) in the state at the time of application for home and community-based services.

3. Income disregarded in the initial eligibility determination process will not be disregarded in the post-eligibility process for determining contributions toward the cost of care.

4. The personal care needs amount (the amount of income protected to cover the expense of living in the community) remains capped at the special income level.

5. All income over the special income level shall be contributed towards the cost of care.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1629 (August 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

**Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability or autonomy as described in R.S.

49:972 by increasing the potential for individuals with income above the special income level to qualify for home and community-based services.

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

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Wednesday, July 29, 2009 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Alan Levine  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Medicaid Eligibility  
Home and Community-Based Services  
Income Disregard**

**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 in FY 08-09. It is anticipated that \$328 (\$164 SGF and \$164 FED) will be expended in FY 08-09 for the state's administrative expense for promulgation of this proposed rule and the final rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections other than the federal share of the promulgation costs for FY 08-09. It is anticipated that \$164 will be collected in FY 08-09 for the federal share of the expense for promulgation of this proposed rule and the final rule.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

This rule proposes to amend the provisions governing eligibility for home and community-based services (HCBS) to establish an income disregard of all income above the special income level. Since the Legislature approves a limited number of waiver opportunities, there will be no increase in the number of HCBS recipients, only an increase in the number of potential eligibles. At this time, the department is unable to determine the number of potential eligibles who may qualify for services in the Elderly and Disabled Adults Waiver, New Opportunities Waiver, Supports Waiver, Children's Choice Waiver and Adult Day Health Care Waiver. It is anticipated that implementation of this proposed rule will not have estimable cost or economic benefits for directly affected persons or non-governmental groups in FY 09-10, FY 10-11, and FY 11-12.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

This rule has no known effect on competition and employment.

Jerry Phillips  
Medicaid Director  
0906#097

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

Medicaid Eligibility—Long-Term Care Insurance  
Resource Disregard (LAC 50:III.10705)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services proposes to adopt LAC 50:III.10705 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Deficit Reduction Act (DRA) of 2005 amended §§1917 and 1924 of the Social Security Act concerning the treatment of assets, asset transfers and the treatment of income and resources for individuals and their spouses who apply for or receive long-term care services covered under the Medicaid Program. In compliance with the DRA provisions, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repealed and replaced the provisions of Section I of the *Medicaid Eligibility Manual* governing the treatment of certain SSI-Related resources which were promulgated in the May 20, 1996 Rule, and repealed and replaced the December 20, 2003, August 20, 2005, and the July 20, 2006 Rules (*Louisiana Register*, Volume 34, Number 7). The July 20, 2008 Rule also adopted provisions governing the treatment of continuing care retirement communities, substantial home equity and life estates.

The Deficit Reduction Act also established provisions allowing state Medicaid agencies to provide a resource disregard to individuals who are insured under a long-term care insurance policy that meets the state's requirements of a "qualified state long-term care insurance partnership policy", as defined in §7702B(b) of the Internal Revenue Code.

In compliance with the DRA provisions, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services proposes to adopt provisions governing financial eligibility to establish a resource disregard for individuals who are insured under a long-term care insurance policy that meets the requirements of a "qualified state long-term care insurance partnership" policy.

**Title 50**  
**PUBLIC HEALTH—MEDICAL ASSISTANCE**  
**Part III. Eligibility**  
**Subpart 5. Financial Eligibility**

**Chapter 107. Resources**  
**§10705. Resource Disregards**

A. In compliance with the Deficit Reduction Act, individuals who are insured under a long-term care insurance policy that meets the requirements of a "qualified state long-term care insurance partnership" policy shall receive a disregard of resources equal to the amount paid under the insurance policy.

1. The Medicaid Program shall accept the certification of the Louisiana Commissioner of Insurance that the long-term care policy meets the requirements of a "qualified long-term care insurance partnership" policy.

B. The resource disregard is determined on a 1:1 ratio. For each \$1 of a qualifying long-term care insurance partnership policy benefit amount paid, \$1 of countable resources is disregarded or excluded during the eligibility determination process.

1. The disregard is permitted at the time a recipient begins receiving benefits from a qualifying long-term care insurance partnership policy.

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

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

**Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability, or autonomy as described in R.S. 49:972 by offering an incentive to individuals who share in the financing of their own long-term care expenses.

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

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Wednesday, July 29, 2009 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Alan Levine  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT**  
**FOR ADMINISTRATIVE RULES**  
**RULE TITLE: Medicaid Eligibility**  
**Long-Term Care Insurance**  
**Resource Disregard**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 08-09. It is anticipated that \$328 (\$164 SGF and \$164 FED) will be expended in FY 08-09 for the state's administrative expense for promulgation of this proposed rule and the final rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections other than the federal share of the promulgation costs for FY 08-09. It is anticipated that \$164 will be collected in FY 08-09 for the federal share of the expense for promulgation of this proposed rule and the final rule.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

This rule proposes to adopt provisions to establish a resource disregard for individuals who are insured under a long-term care insurance policy that meets the requirements of a "qualified state long-term care insurance partnership" policy. (Since this insurance policy is not yet available in the state, it is indeterminable how many individuals will purchase this type of insurance policy and later apply for Medicaid coverage of long-term care expenses after the policy benefits have been exhausted.) It is anticipated that implementation of this proposed rule will have no estimable cost or economic benefits for directly affected persons or non-governmental groups in FY 09-10, FY 10-11 and FY 11-12.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

It is anticipated that the implementation of this rule will have no effect on competition and employment.

Jerry Phillips  
Medicaid Director  
0906#068

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

Pregnant Women Extended Services  
Dental Services  
Reimbursement Rate Increase  
(LAC 50:XV.16105 and 16107)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:XV.16105 and §16107 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency 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 to expand coverage of certain designated dental services to include Medicaid eligible pregnant women, ages 21 through 59, in order to address their periodontal needs that occur during pregnancy (*Louisiana Register*, Volume 30, Number 3). The bureau amended the March 20, 2004 Rule to clarify the provisions governing the prior authorization of these services (*Louisiana Register*, Volume 34, Number 3). The bureau amended the March 20, 2008 Rule to include an additional dental service that was already covered for Medicaid eligible pregnant women but was omitted from the list of covered services and to correct the spelling of a covered service in these provisions (*Louisiana Register*, Volume 34, Number 7).

Act 19 of the 2008 Regular Session of the Louisiana Legislature authorized expenditures to the Medical Vendor Program for payments to private and public providers of health care services. In compliance with the directives of Act 19, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule to amend the provisions governing the Pregnant Women Extended Services Dental Program to include coverage of two additional dental procedures, increase the reimbursement fees for designated dental services and clarify the provisions governing the reimbursement methodology for dental services rendered to Medicaid eligible pregnant women (*Louisiana Register*, Volume 35, Number 1). This proposed Rule is being promulgated to continue the provisions of the January 6, 2009 Emergency Rule.

## **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part XV. Services for Special Populations**

#### **Subpart 13. Pregnant Women Extended Services**

#### **Chapter 161. Dental Services**

#### **§16105. Covered Services**

A. - B ...

C. Effective January 6, 2009, the following dental procedures are included in the service package for dental services provided to Medicaid eligible pregnant women:

1. resin-based composite restorations (1-4 or more surfaces), posterior; and
2. extraction, coronal remnants—deciduous tooth.

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

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, amended LR 34:442 (March 2008), LR 34:1419 (July 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

#### **§16107. Reimbursement**

A. Dental services covered under Pregnant Women Extended Services shall be reimbursed at the lower of either:

1. the dentist's billed charges minus any third party coverage; or

2. 65 percent of the 2007 National Dental Advisory Service Comprehensive Fee Report 70th percentile rate minus any third party coverage.

B. Effective for dates of service on and after January 6, 2009, the reimbursement fees for certain dental services are increased to the following percentages of the 2008 National Dental Advisory Service Comprehensive Fee Report 70th percentile rate, unless otherwise stated in this Chapter. These designated reimbursement fees are increased to:

1. 75 percent for the following services:
  - a. radiograph—periapical and panoramic film; and
  - b. prophylaxis;
2. 70 percent for the following services:
  - a. radiograph—occlusal film;
  - b. amalgam (1-4 or more surfaces), primary or permanent;
  - c. resin-based composite anterior and posterior;
  - d. resin-based composite crown, anterior;
  - e. prefabricated stainless steel or resin crown;
  - f. pin retention;
  - g. extraction of erupted tooth or exposed root;
  - h. surgical removal of erupted tooth and removal of bone and/or section of tooth; and
  - i. removal of impacted tooth (soft tissue or partially bony);
3. 65 percent for the following dental services:
  - a. periodontal scaling and root planing;
  - b. full mouth debridement; and
  - c. extraction, coronal remnants—deciduous tooth.

C. The reimbursement fees for all other covered dental procedures shall remain at the rate on file as of January 5, 2009.

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

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:434 (March 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

#### **Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Wednesday, July 29, 2009 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Alan Levine  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Pregnant Women Extended  
Services—Dental Services  
Reimbursement Rate Increase**

**NOTICE OF INTENT  
Department of Health and Hospitals  
Bureau of Health Services Financing  
and  
Office of Aging and Adult Services**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will result in an estimated increase in expenses to the state of \$24,762 for FY 08-09, \$60,603 for FY 09-10, and \$62,421 for FY 10-11. It is anticipated that \$492 (\$246 SGF and \$246 FED) will be expended in FY 08-09 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on the "hold harmless" Federal Medical Assistance Percentage (FMAP) as allowed in the American Recovery and Reinvestment Act of 2009 (72.47%). Additional federal funds are projected to be available in the current year through December 2010. To the extent that DHH utilizes federal match, up to the allowable match (estimated to be 80.01% in the current year) for the eligibility period (through December 2010), state general fund match could be reduced. In FY 10-11, the FMAP is projected to drop below the hold harmless rate by an unknown amount. In the event of this decrease, the state general funds will increase to the federally required match.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$64,781 for FY 08-09, \$159,531 for FY 09-10, and \$164,317 for FY 10-11. It is anticipated that \$246 will be expended in FY 08-09 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on the "hold harmless" Federal Medical Assistance Percentage (FMAP) as allowed in the American Recovery and Reinvestment Act of 2009 (72.47%). Additional federal funds are projected to be available in the current year through December 2010. To the extent that DHH utilizes federal match, up to the allowable match (estimated to be 80.01% in the current year) for the eligibility period (through December 2010), state general fund match could be reduced. In FY 10-11, the FMAP is projected to drop below the hold harmless rate by an unknown amount. In the event of this decrease, the state general funds will increase to the federally required match.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

This rule, which continues the provisions of the January 6, 2009 emergency rule, proposes to increase the reimbursement rate paid for certain dental services, include coverage of two additional dental procedures and clarify the provisions governing the reimbursement methodology for dental services rendered to pregnant women (approximately 7,600 services annually). It is anticipated that implementation of this proposed rule will increase expenditures in the Medicaid Program by approximately \$89,051 for FY 08-09, \$220,134 for FY 09-10 and \$226,738 for FY 10-11.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

It is anticipated that the implementation of this rule will have no effect on competition and employment.

Jerry Phillips  
Medicaid Director  
0906#069

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

Estate Recovery—Long-Term Care Insurance Resource  
Disregard (LAC 50:I.8103)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services proposes to amend LAC 50:I.8103 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

In compliance with Act 226 of the 2003 Regular Session of the Louisiana Legislature, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repealed and replaced the provisions governing estate recovery to provide cost-effective guidelines, define undue hardship and to add regulations addressing privileges on the succession estate and reduction in recovery (*Louisiana Register*, Volume 30, Number 4).

The Deficit Reduction Act of 2005 established provisions allowing state Medicaid agencies to provide a resource disregard to individuals who are insured under a long-term care insurance policy that meets the state's requirements of a "qualified state long-term care insurance partnership policy", as defined in §7702B(b) of the Internal Revenue Code. These provisions also allowed states to exclude the resources disregarded in the eligibility determination from the estate recovery process. In compliance with the DRA provisions, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services proposes to adopt provisions to exclude the disregarded resources from the estate recovery process when Medicaid recipients are insured under a qualified long-term care insurance policy.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part I. Administration**

**Subpart 9. Recovery**

**Chapter 81. Estate Recovery**

**§8103. General Provisions**

A. - E. ...

F. Recovery Exclusion. If an individual was insured under a qualifying long-term care insurance partnership policy and received Medicaid benefits as a result of resources being disregarded in the eligibility determination, the department shall not seek adjustment or recovery from the individual's estate for the amount of the resources disregarded.

1. The resource disregard is determined on a 1:1 ratio. For each \$1 of a qualifying long-term care insurance partnership policy benefit, \$1 of countable resources is disregarded or excluded during the eligibility determination process.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:801 (April 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:

#### Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability, or autonomy as described in R.S. 49:972 by enabling the families of Medicaid recipients with qualified long-term care insurance policies to retain the assets that are excluded from the estate recovery process.

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

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Wednesday, July 29, 2009 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Alan Levine  
Secretary

#### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

##### RULE TITLE: Estate Recovery—Long-Term Care Insurance Resource Disregard

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 08-09. It is anticipated that \$328 (\$164 SGF and \$164 FED) will be expended in FY 08-09 for the state's administrative expense for promulgation of this proposed rule and the final rule.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections other than the federal share of the promulgation costs for FY 08-09. It is anticipated that \$164 will be collected in FY 08-09 for the federal share of the expense for promulgation of this proposed rule and the final rule.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule proposes to adopt provisions to exclude the disregarded resources from the estate recovery process when Medicaid recipients are insured under a qualified long-term care insurance policy. (Since this insurance policy is not yet available in the state, it is indeterminable how many individuals will purchase this type of insurance policy and later apply for

Medicaid coverage of long-term care expenses after the policy benefits have been exhausted. Based on historical data, it is highly unlikely that the population who will purchase this type of insurance policy will ever receive Medicaid benefits.) It is anticipated that implementation of this proposed rule will have no estimable cost or economic benefits for directly affected persons or non-governmental groups in FY 09-10, FY 10-11 and FY 11-12.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this rule will have no effect on competition and employment.

Jerry Phillips  
Medicaid Director  
0906#065

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

#### NOTICE OF INTENT

##### Department of Public Safety and Corrections Gaming Control Board

Gaming  
(LAC 42:VII.2723, 2730; IX.1907, 2707, 2715,  
2723, 2730, 2735, 2901, 3302, 4315; XIII.2715,  
2723, 2730, 4204 and 4209)

The Louisiana Gaming Control Board hereby gives notice that it intends to amend LAC 42:VII.2723, 2730, IX.1907, 2707, 2715, 2723, 2730, 2735, 2901, 3302, 4315, XIII.2715, 2723, 2730, 4204 and 4209.

#### Title 42

#### LOUISIANA GAMING

##### Part VII. Pari-Mutuel Live Racing Facility Slot Machine Gaming

##### Chapter 27. Accounting Regulations

##### §2723. Internal Controls; Slots

A. - Q.25. ...

26. Currency acceptor drop box release keys are maintained by a department independent of the slot department. Only the employee authorized to remove drop boxes from the currency acceptor is allowed access to the release keys. Employees participating in the drop process are precluded from simultaneously possessing both the drop box contents keys and the drop box release keys.

Q.27. - V.2. ...

a. When a progressive jackpot is hit on a machine in the group, all other machines shall be locked out, except if an individual progressive meter unit is visible from the front of the machine. In that case, the progressive control unit shall lock out only the machine in the progressive link that hit the jackpot. All other progressive meters shall show the current progressive jackpot amount.

b. - c. Repealed.

V.3. - W.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:751 (April 2000) amended LR 26:2305 (October 2000), LR 31:1603 (July 2005), LR 34:2648 (December 2008), LR 35:

##### §2730. Exchange of Tokens

A. - C. ...

D. All tokens received by a licensed eligible facility as a result of an exchange authorized by this Section shall be

returned to the issuing licensed eligible facility or riverboat licensee for redemption at least annually as part of an exchange unless the division approves otherwise in writing. Both licensed eligible facilities and riverboat licensees shall document the redemption in a manner approved by the division.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:761 (April 2000), amended LR 34:2649 (December 2008), LR 35:

## **Part IX. Landbased Casino Gaming**

### **Subpart 1. Economic Development and Gaming Corporation**

#### **Chapter 19. General Provisions**

##### **§1907. Definitions, Words and Terms, Captions, Gender References**

A. ...

\*\*\*

*Non-Gaming Supplier Permit*—the same meaning as the term in R.S. 27:29.3.

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AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1901 (October 1999), amended LR 34:2653 (December 2008), LR 35:

#### **Chapter 27. Accounting Regulations**

##### **§2707. Record Retention**

A. - B.4. ...

C. The Casino Operator or Casino Manager must have a written contingency plan in the event of a system failure or other event resulting in the loss of system data. The plan shall address backup and recovery procedures and shall be sufficiently detailed to ensure the timely restoration of data in order to resume operations after a hardware or software failure or other event that results in the loss of data.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1925 (October 1999), amended LR 34:2654 (December 2008), LR 35:

##### **§2715. Internal Control; General**

A. - A.8.e. ...

f. no sensitive key shall be removed from the Premises unless prior approval has been granted by the division. For purposes of this rule, Premises is specified in the Casino Operator or Casino Manager's internal controls;

A.8.g.-J. ...

K. The casino operator or casino manager may extend credit to a patron only in the manner(s) provided in its internal control system approved by the division.

L. - Q. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1925 (October 1999), amended LR 34:2655 (December 2008), LR 35:

##### **§2723. Internal Controls; Slots**

A. - Q.25. ...

26. Currency acceptor drop box release keys are maintained by a department independent of the slot

department. Only the employee authorized to remove drop boxes from the currency acceptor is allowed access to the release keys. Employees participating in the drop process are precluded from simultaneously possessing both the drop box contents keys and the drop box release keys.

Q.27. - V.2. ...

a. When a progressive jackpot is hit on a machine in the group, all other machines shall be locked out, except if an individual progressive meter unit is visible from the front of the machine. In that case, the progressive control unit shall lock out only the machine in the progressive link that hit the jackpot. All other progressive meters shall show the current progressive jackpot amount.

b. - c. Repealed.

V.3. - W.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1936 (October 1999), amended LR 26:2306 (October 2000), LR 31:1605 (July 2005), LR 34:2657 (December 2008), LR 35:

##### **§2730. Exchange of Tokens and Chips**

A. - C. ...

D. All tokens and chips received by a Casino Operator or Casino Manager as a result of an exchange authorized by this Section shall be returned to the issuing Casino Operator or Casino Manager for redemption at least annually as part of an exchange unless the division approves otherwise in writing. Both the issuing and receiving Casino Operator or Casino Manager shall document the redemption in a manner approved by the division.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1947 (October 1999), amended LR 34: 2658 (December 2008), LR 35:

##### **§2735. Gross Gaming Revenue Computations**

A. For each table game, gross gaming revenue shall equal the soft count drop, plus or minus the change in table inventory, plus or minus the chip float adjustment. The change in table inventory shall be equal to the beginning table inventory, plus chip fills to the table, less credits from the table, less ending table inventory. The first step in the calculation of the chip float adjustment shall be the daily chip float calculation which shall be the total chips received to date (i.e., the initial chips received from vendors plus all subsequent shipments of chips received) less the total day's chip count (i.e., the sum of chips in the vault, cage drawers, tables, change lockers and all other locations). The daily ending inventory chip count shall at no time exceed the total amount of chips in the total casino chip accountability. If at any time the calculated daily chip float is less than zero, the casino operator or casino manager shall adjust to reflect a zero current day chip float. Afterwards, the chip float adjustment shall be calculated daily by subtracting the previous day's chip float from the current day's chip float.

B. - F.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1948 (October 1999), amended LR 34:2659 (December 2008), LR 35:

## **Chapter 29. Operating Standards Generally**

### **§2901. Code of Conduct of the Casino Operator, Casino Manager, Licensees and Permittees**

A. - C.1.j. ...

k. failure to obtain approval from the division prior to changing, adding, or altering the casino. For the purpose of this Section, altering the casino configuration does not include the routine movement of EGDs for cleaning and/or maintenance purposes.

D. - D.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1950 (October 1999), amended LR 27:59 (January 2001), LR 29:2506 (November 2003), LR 34:2659 (December 2008), LR 35:

## **Chapter 33. Surveillance**

### **§3302. Digital Video Recording Standards**

A. - A.2. ...

a. record and replay activity in all gaming areas where cash is handled including but not limited to cages, vaults, count rooms, table games, and the drop process, at a minimum of 30 frames per second and in real time; and in all other gaming areas, a minimum number of frames per second as specified in the casino operator or casino manager's internal controls as approved by the division;

A.2.b. - A.13. ...

14. Casino Operator or Casino Manager shall obtain prior authorization from the division if any portion of their surveillance system is changed from an analog to a DVR format, setting forth what the change will be, when the change will occur, and how the change will affect their surveillance system as a whole.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 34:2660 (December 2008), LR 35:

## **Chapter 43. Specifications for Gaming Tokens and Associated Equipment**

### **§4315. Redemption and Disposal of Discontinued Chips and Tokens**

A. - B.5. ...

6. such destruction must be to the satisfaction of the division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1979 (October 1999), LR 35:

## **Part XIII. Riverboat Gaming**

### **Subpart 2. State Police Riverboat Gaming Division**

#### **Chapter 27. Accounting Regulations**

##### **§2715. Internal Control; General**

A. - A.8.e. ...

f. no sensitive key shall be removed from the Premises unless prior approval has been granted by the division. For purposes of this rule, Premises is specified in the Casino Operator or Casino Manager's internal controls;

A.8.g. - N. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat

Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1879 (October 1999), repromulgated LR 25:2235 (November 1999), amended LR 26:2306 (October 2000), LR 34: 2666 (December 2008), LR 35:

##### **§2723. Internal Controls; Slots**

A. - Q.25. ...

26. Currency acceptor drop box release keys are maintained by a department independent of the slot department. Only the employee authorized to remove drop boxes from the currency acceptor is allowed access to the release keys. Employees participating in the drop process are precluded from simultaneously possessing both the drop box contents keys and the drop box release keys.

Q.27. - V.2. ...

a. When a progressive jackpot is hit on a machine in the group, all other machines shall be locked out, except if an individual progressive meter unit is visible from the front of the machine. In that case, the progressive control unit shall lock out only the machine in the progressive link that hit the jackpot. All other progressive meters shall show the current progressive jackpot amount.

b. - c. Repealed.

V.3. - W.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1887 (October 1999), repromulgated LR 25:2243 (November 1999), amended LR 26:2306 (October 2000), LR 31:1607 (July 2005), LR 34:2667 (December 2008), LR 35:

##### **§2730. Exchange of Tokens and Chips**

A. - C. ...

D. All tokens and chips received by a licensee as a result of an exchange authorized by this Section shall be returned to the issuing licensee for redemption at least annually as part of an exchange unless the division approves otherwise in writing. Both licensees shall document the redemption in a manner approved by the division.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1898 (October 1999), repromulgated LR 25:2254 (November 1999), amended LR 34:2668 (December 2008), LR 35:

## **Chapter 42. Electronic Gaming Devices**

### **§4204. Progressive Electronic Gaming Devices**

A. This Section authorizes the use of progressive EGDs among gaming operations licensed pursuant to the provisions of R.S. 27:51 et seq., R.S. 27:201 et seq., and R.S. 27:351 et seq., in the state of Louisiana within one riverboat provided that the EGDs meet the requirements stated in this Chapter and any additional requirements imposed by these rules.

B. - N.4.d. ...

e. the distribution is completed within 30 days after the progressive jackpot is removed from play or within such longer period as the division may for good cause approve; or

N.4.f. - P.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:718 (April 2000), amended LR 31:1607 (July 2005), LR 33:2463 (November 2007), LR 34:2671 (December 2008), LR 35:

**§4209. Approval of New Electronic Gaming Devices**

A. - A.31.b. ...

c. Bill validators may accept other items as approved by the division.

32. - 32.a. ...

b. - c. Repealed.

33. - 37.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:721 (April 2000), amended LR 29:2508 (November 2003), LR 31:1603 (July 2005), LR 31:1607 (July 2005), LR 34:2672 (December 2008), LR 35:

**Family Impact Statement**

Pursuant to the provisions of R.S. 49:953(A), the Louisiana Gaming Control Board, through its chairman, has considered the potential family impact of amending the following: LAC 42:VII. 2723 and 2730; IX.1907, 2707, 2715, 2723, 2730, 2735, 2901, 3302, and 4315; XIII. 2715, 2723, 2730, 4204, and 4209

It is accordingly concluded that amending the above Rule would appear to have a positive yet inestimable impact on the following:

1. the effect on stability of the family;
2. the effect on the authority and rights of parents regarding the education and supervision of their children;
3. the effect on the functioning of the family;
4. the effect on family earnings and family budget;
5. the effect on the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

**Small Business Impact Statement**

Pursuant to the provisions of R.S. 49:965.5 the Louisiana Gaming Control Board, through its chairman, has concluded that there will be no adverse impact on small business if the Sections are amended as they will not apply to small businesses.

All interested persons may contact Jonathon Wagner, Attorney General's Gaming Division, telephone (225) 326-6500, and may submit comments relative to this proposed Rule, through July 10, 2009, to 1885 North Third Street, Suite 500, Baton Rouge, LA 70802.

H. Charles Gaudin  
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Gaming**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed administrative rule changes will have no implementation costs to state or local governmental units. These rule changes clarify practices already required to take

place in industry, correct previous promulgation errors, and create uniformity between existing rules.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed changes will not create any foreseeable impact on revenue collections for either the state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed administrative rule changes will have no significant costs and/or economic benefit to industry.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed administrative rule changes will have no effect on competition and employment.

H. Charles Gaudin  
Chairman  
0906#019

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Public Safety and Corrections  
State Uniform Construction Code Council**

State Uniform Construction Code—International  
Mechanical Code (LAC 55:VI.301)

In accordance with the provisions of Act 12 of the 2005 First Extraordinary Session, R.S. 40:1730.22(C) and (D) and R.S. 40:1730.34(B) relative to the authority of the Louisiana State Uniform Construction Code Council to promulgate and enforce rules, the Louisiana State Uniform Construction Council hereby proposes to amend Chapter 3 to amend the International Mechanical Code (IMC) by replacing Sections 403.1 through 403.7 of the 2006 edition with Sections 403.1 through 403.7 of the 2007 Supplement to the IMC, and to adopt the 2008 edition of the National Electrical Code which will become effective January 1, 2010.

**Title 55**

**PUBLIC SAFETY**

**Part VI. Uniform Construction Code**

**Chapter 3. Adoption of the Louisiana State Uniform Construction Code**

**§301. Louisiana State Uniform Construction Code**

A. - A.3.b.i.(b). ...

4. International Mechanical Code, 2006 Edition, and the standards referenced in that code for regulation within this state. Furthermore, IMC Section 403.1 through Section 403.7 of the IMC shall be amended to include the following:

**Section 403.1** Change to read as shown: (M44-06/07)

403.1 Ventilation system. Mechanical ventilation shall be provided by a method of supply air and return or exhaust air. The amount of supply air shall be approximately equal to the amount of return and exhaust air. The system shall not be prohibited from producing negative or positive pressure. The system to convey ventilation air shall be designed and installed in accordance with Chapter 6.

**Section 403.2** Change to read as shown: (M44-06/07)

403.2 Outdoor air required. The minimum outdoor airflow rate shall be determined in accordance with Section 403.3. Ventilation supply systems shall be designed to deliver the required rate of outdoor airflow to the breathing zone within each occupiable space.

Exception: Where the registered design professional demonstrates that an engineered ventilation system design will prevent the maximum concentration of contaminants from exceeding that obtainable by the rate of outdoor air ventilation determined in accordance with Section 403.3, the minimum required rate of outdoor air shall be reduced in accordance with such engineered system design.

**Section 403.2.1** Change to read as shown: (M44-06/07)

403.2.1 Recirculation of air. The outdoor air required by Section 403.3 shall not be recirculated. Air in excess of that required by Section 403.3 shall not be prohibited from being recirculated as a component of supply air to building spaces, except that:

1. Ventilation air shall not be recirculated from one dwelling to another or to dissimilar occupancies.
2. Supply air to a swimming pool and associated deck areas shall not be recirculated unless such air is dehumidified to maintain the relative humidity of the area at 60 percent or less. Air from this area shall not be recirculated to other spaces where 10 percent or more of the resulting supply airstream consists of air recirculated from these spaces.
3. Where mechanical exhaust is required by Note b in Table 403.3, recirculation of air from such spaces shall be prohibited. All air supplied to such spaces shall be exhausted, including any air in excess of that required by Table 403.3.
4. Where mechanical exhaust is required by Note h in Table 403.3, mechanical exhaust is required and recirculation is prohibited where 10 percent or more of the resulting supply airstream consists of air recirculated from these spaces.

**Section 403.2.2** Change to read as shown: (M44-06/07)

403.2.2 Transfer air. Except where recirculation from such spaces is prohibited by Table 403.3, air transferred from occupiable spaces is not prohibited from serving as makeup air for required exhaust systems in such spaces as kitchens, baths, toilet rooms, elevators and smoking lounges. The amount of transfer air and exhaust air shall be sufficient to provide the flow rates as specified in Section 403.3. The required outdoor airflow rates specified in Table 403.3 shall be introduced directly into such spaces or into the occupied spaces from which air is transferred or a combination of both.

**Section 403.3** Change to read as shown: (M44-06/07)

403.3 Outdoor airflow rate. Ventilation systems shall be designed to have the capacity to supply the minimum outdoor airflow rate determined in accordance with this section. The occupant load utilized for design of the ventilation system shall not be less than the number determined from the estimated maximum occupant load rate indicated in Table 403.3. Ventilation rates for occupancies not represented in Table 403.3 shall be those for a listed occupancy classification that is most similar in terms of occupant density, activities and building construction; or shall be determined by an approved engineering analysis. The ventilation system shall be designed to supply the required rate of ventilation air continuously during the period the building is occupied, except as otherwise stated in other provisions of the code.

With the exception of smoking lounges, the ventilation rates in Table 403.3 are based on the absence of smoking in occupiable spaces. Where smoking is anticipated in a space other than a smoking lounge, the ventilation system serving the space shall be designed to provide ventilation over and above that required by Table 403.3 in accordance with accepted engineering practice.

Exception: The occupant load is not required to be determined, based on the estimated maximum occupant load rate indicated in Table 403.3 where approved statistical data document the accuracy of an alternate anticipated occupant density.

**Section 403.3.1** "System operation" Relocated to Section 403.5: (M44-06/07)

**Section 403.3.1** Add new section to read as shown: (M44-06/07)

403.3.1 Zone outdoor airflow. The minimum outdoor airflow required to be supplied to each zone shall be determined as a function of occupancy classification and space air distribution effectiveness in accordance with Sections 403.3.1.1 through 403.3.1.3.

**Sections 403.3.1.1, 403.3.1.2, Table 403.3.1.2, Section 403.3.1.3** Add new sections and new table to read as shown: (M44-06/07)

403.3.1.1 Breathing zone outdoor airflow. The outdoor airflow rate required in the breathing zone (Vbz) of the occupiable space or spaces in a zone shall be determined in accordance with Equation 4-1.

$$Vbz = RpPz + RaAz \quad (\text{Equation 4-1})$$

where:

Az = zone floor area: the net occupiable floor area of the space or spaces in the zone.

Pz = zone population: the number of people in the space or spaces in the zone.

Rp = people outdoor air rate: the outdoor airflow rate required per person from Table 403.3

Ra = area outdoor air rate: the outdoor airflow rate required per unit area from Table 403.3

**403.3.1.2** Zone air distribution effectiveness. The zone air distribution effectiveness (Ez) shall be determined using Table 403.3.1.2.

**Table 403.3.1.2 Zone Air Distribution Effectiveness**

Air Distribution Configuration	Ez
Ceiling or floor supply of cool air	1.0f
Ceiling or floor supply of warm air and floor return	1.0
Ceiling supply of warm air and ceiling return	0.8g
Floor supply of warm air and ceiling return	0.7
Makeup air drawn in on the opposite side of the room from the exhaust and/or return	0.8
Makeup air drawn in near to the exhaust and/or return location	0.5

For SI: 1 foot = 304.8 mm, 1 foot per minute = 0.00506 m/s, C = [(F) - 32]/1.8.

- a. "Cool air" is air cooler than space temperature.
- b. "Warm air" is air warmer than space temperature.
- c. "Ceiling" includes any point above the breathing zone.
- d. "Floor" includes any point below the breathing zone.
- e. "Makeup air" is air supplied or transferred to a zone to replace air removed from the zone by exhaust or return systems.
- f. Zone air distribution effectiveness of 1.2 shall be permitted for systems with a floor supply of cool air and ceiling return, provided that low-velocity displacement ventilation achieves unidirectional flow and thermal stratification.
- g. Zone air distribution effectiveness of 1.0 shall be permitted for systems with a ceiling supply of warm air, provided that supply air temperature is less than 15° F above space temperature and provided that the 150 foot-per-minute supply air jet reaches to within 4.5 feet of floor level.

**403.3.1.3** Zone outdoor airflow. The zone outdoor airflow rate (Voz), shall be determined in accordance with Equation 4-2.

$$Voz = Vbz/Ez \quad (\text{Equation 4-2})$$

**Section 403.3.2** Change to read as shown: (M44-06/07)

403.3.2 System outdoor airflow. The outdoor air required to be supplied by each ventilation system shall be determined in accordance with Sections

403.3.2.1 through 403.2.3 as a function of system type and zone outdoor airflow rates.

**Sections 403.3.2.1, 403.3.2.2, 403.3.2.3, 403.3.2.3.1, 403.3.2.3.2, Table 403.3.2.3.2, Sections 403.3.2.3.3, 403.3.2.3.4** Add new sections and table to read as shown: (M44-06/07)

403.3.2.1 Single zone systems. Where one air handler supplies a mixture of outdoor air and recirculated return air to only one zone, the system outdoor air intake flow rate ( $V_{ot}$ ) shall be determined in accordance with Equation 4-3.

$$V_{ot} = V_{oz} \text{ (Equation 4-3)}$$

403.3.2.2 100-percent outdoor air systems. Where one air handler supplies only outdoor air to one or more zones, the system outdoor air intake flow rate ( $V_{ot}$ ) shall be determined using Equation 4-4.

$$V_{ot} = \sum \text{all zones } V_{oz} \text{ (Equation 4-4)}$$

403.3.2.3 Multiple zone recirculating systems. Where one air handler supplies a mixture of outdoor air and recirculated return air to more than one zone, the system outdoor air intake flow rate ( $V_{ot}$ ) shall be determined in accordance with Sections 403.3.2.3.1 through 403.3.2.3.5.

403.3.2.3.1 Primary Outdoor Air Fraction. The primary outdoor air fraction ( $Z_p$ ) shall be determined for each zone in accordance with Equation 4-5.

$$Z_p = V_{oz} / V_{pz} \text{ (Equation 4-5)}$$

where:

$V_{pz}$  = Primary airflow: The airflow rate supplied to the zone from the air-handling unit at which the outdoor air intake is located. It includes outdoor intake air and recirculated air from that air-handling unit but does not include air transferred or air recirculated to the zone by other means. For design purposes,  $V_{pz}$  shall be the zone design primary airflow rate, except for zones with variable air volume supply and  $V_{pz}$  shall be the lowest expected primary airflow rate to the zone when it is fully occupied.

403.3.2.3.2 System ventilation efficiency. The system ventilation efficiency ( $E_v$ ) shall be determined using Table 403.3.2.3.2 or Appendix A of ASHRAE 62.1.

**Table 403.3.2.3.2  
System Ventilation Efficiency**

$Max(Z_p)$	$E_v$
0.15	1.0
0.25	0.9
0.35	0.8
0.45	0.7
0.55	0.6
0.65	0.5
0.75	0.4
> 0.75	0.3

a.  $Max(Z_p)$  is the largest value of  $Z_p$  calculated using Equation 4-5 among all the zones served by the system.

b. Interpolating between table values shall be permitted.

403.3.2.3.3 Uncorrected outdoor air intake. The uncorrected outdoor air intake flow rate ( $V_{ou}$ ) shall be determined in accordance with Equation 4-7.

$$V_{ou} = D \sum \text{all zones } R_p P_z + \sum \text{all zones } R_a A_z \text{ (Equation 4-7)}$$

where:

$D$  = Occupant diversity: the ratio of the *system population* to the sum of the zone populations, determined in accordance with Equation 4-8.

$$D = P_s / \sum \text{all zones } P_z \text{ (Equation 4-8)}$$

where:

$P_s$  = System population: The total number of occupants in the area served by the system. For design purposes,  $P_s$  shall be the maximum number of occupants expected to be concurrently in all zones served by the system.

403.3.2.3.4 Outdoor air intake flow rate. The outdoor air intake flow rate ( $V_{ot}$ ) shall be determined in accordance with Equation 4-9.

$$V_{ot} = V_{ou} / E_v \text{ (Equation 4-9)}$$

Section 403.3.3 "Variable air volume system control" Relocated to Section 403.6: (M44-06/07) Section 403.3.4 "Balancing" Relocated to Section 403.7: (M44-06/07)

**Table 403.3** Change table to read as shown: (M44-06/07, M48-06/07)

**Table 403.3 Minimum Ventilation Rates**

<b>Occupancy Classification</b>	<b>People Outdoor Airflow Rate in Breathing Zone Cfm/person</b>	<b>Area Outdoor Airflow Rate In Breathing Zone Ra Cfm/ft2a</b>	<b>Default Occupant Density #/1000 ft2a</b>	<b>Exhaust Airflow Rate Cfm/ft2a</b>
<b>Correctional facilities</b>				
Cells				
without plumbing fixtures	5	0.12	25	-
with plumbing fixtures <sub>g</sub>	5	0.12	25	1.0
Dining halls (See Food and Beverage Service)	-	-	-	-
Guard stations	5	0.06	15	-
Day room	5	0.06	30	-
Booking/waiting	7.5	0.06	50	-
<b>Dry Cleaners, laundries</b>				
Coin-operated dry cleaner	15	-	20	-
Coin-operated laundries	7.5	0.06	20	-
Commercial dry cleaner	30	-	30	-
Commercial laundry	25	-	10	-
Storage, pick up	7.5	.12	30	-
<b>Education</b>				
Auditoriums	5	0.06	150	-
Corridors (See Public Spaces)	-	-	-	-
Media center	10	0.12	25	-
Sports locker room <sub>g</sub>	-	-	-	0.5
Music/theater/dance	10	0.06	35	-
Smoking lounges <sub>b</sub>	60	-	70	-
Daycare (through age 4)	10	0.18	25	-
Classrooms (ages 5-8)	10	0.12	25	-
Classrooms (age 9 plus)	10	0.12	35	-
Lecture classroom	7.5	0.06	65	-
Lecture hall (fixed seats)	7.5	0.06	150	-
Art classroom <sub>g</sub>	10	0.18	20	0.7
Science laboratories <sub>g</sub>	10	0.18	25	1.0
Wood/metal shops <sub>g</sub>	10	0.18	20	0.5
Computer lab	10	0.12	25	-
Multi-use assembly	7.5	0.06	100	-
Locker/dressing rooms <sub>g</sub>	-	-	-	0.25
<b>Food and beverage service</b>				
Bars, cocktail lounges	7.5	0.18	100	-
Cafeteria, fast food	7.5	0.18	100	-
Dining rooms	7.5	0.18	70	-
Kitchens (cooking) <sub>b</sub>	-	-	-	0.7
<b>Hospitals, nursing and convalescent homes</b>				
Autopsy rooms <sub>b</sub>		-	-	0.5
Medical procedure rooms	15	-	20	-
Operating rooms	30	-	20	-
Patient rooms	25	-	10	-
Physical therapy	15	-	20	-
Recovery and ICU	15	-	20	-
<b>Hotels, motels, resorts and dormitories</b>				
Multi-purpose assembly	5	0.06	120	-
Bathrooms/Toilet - private <sub>g</sub>	-	-	-	f25/50
Bedroom/living room	5	0.06	10	-
Conference/meeting	5	0.06	50	-
Dormitory sleeping areas	5	0.06	20	-
Gambling casinos	7.5	0.18	120	-
Lobbies/pre-function	7.5	0.06	30	-
<b>Offices</b>				
Conference rooms	5	0.06	50	-
Office spaces	5	0.06	5	-
Reception areas	5	0.06	30	-
Telephone/data entry	5	0.06	60	-
Main entry lobbies	5	0.06	10	-

Occupancy Classification	People Outdoor Airflow Rate in Breathing Zone Cfm/person	Area Outdoor Airflow Rate In Breathing Zone Ra Cfm/ft2a	Default Occupant Density #/1000 ft2a	Exhaust Airflow Rate Cfm/ft2a
<b>Private dwellings, single and multiple</b> Garages, common for multiple units <sub>b</sub> Garages, separate for each dwelling <sub>b</sub> Kitchens <sub>b</sub> Living areas <sub>c</sub>	- - - 0.35 ACH but not less than 15 cfm/person	- - - -	- - - Based upon number of bedrooms. first bedroom 2; each additional bedroom: 1	0.75 100 cfm per car 25/100f -
Toilet rooms and bathrooms <sub>g</sub>	-	-	-	20/50f
<b>Public spaces</b> Corridors Elevator car Shower room (per shower head) <sub>g</sub> Smoking lounges <sub>b</sub> Toilet rooms – public <sub>g</sub> Places of religious worship Courtrooms Legislative chambers Libraries Museums (children`s) Museums/galleries	- - - 60 - 5 5 5 5 7.5 7.5	0.06 - - - - 0.06 0.06 0.06 0.12 0.12 0.06	- - - 70 - 120 70 50 10 40 40	- 1.0 50/20f - 50/70e -
<b>Retail stores, sales floors and showroom floors</b> Sales (except as below) Dressing rooms Mall common areas Shipping and receiving Smoking lounges <sub>b</sub> Storage rooms Warehouses (See Storage)	7.5 - 7.5 - 60 - -	0.12 - 0.06 0.12 - 0.12 -	15 - 40 - 70 - -	- 0.25 - - - - -
<b>Specialty shops</b> Automotive motor-fuel dispensing stations <sub>b</sub> Barber Beauty and nail salons <sub>b</sub> , Embalming room <sub>b</sub> Pet shops (animal areas) <sub>b</sub> Supermarkets	- 7.5 20 7.5 7.5	- 0.06 0.12 0.18 0.06	- 25 25 10 8	1.5 0.5 0.6 2.0 0.9 -
<b>Sports and amusement</b> Disco/dance floors Bowling alleys (seating areas) Game arcades Ice arenas without combustion engines Gym, stadium, arena (play area) Spectator areas Swimming pools (pool and deck area) Health club/aerobics room Health club/weight room	20 10 7.5 - - 7.5 - 20 20	0.06 0.12 0.18 0.30 0.30 0.06 0.48 0.06 0.06	100 40 20 - - 150 - 40 10	- - - 0.5 - - - - -
<b>Storage</b> Repair garages, enclosed parking garages <sub>b,d</sub> Warehouses	- -	- 0.06	- -	0.75 -
Theaters Auditoriums (See Education) Lobbies Stages, studios Ticket booths	- 5 10 5	- 0.06 0.06 0.06	- 150 70 60	- - - -
<b>Transportation</b> Platforms Transportation waiting	7.5 7.5	0.06 0.06	100 100	- -
<b>Workrooms</b> Bank vaults/safe deposit Darkrooms Copy, printing rooms Meat processing <sub>c</sub> Pharmacy (prep. area) Photo studios Computer (without printing)	5 - 5 15 5 5 5	0.06 - 0.06 - 0.18 0.12 0.06	5 - 4 10 10 10 4	1.0 0.5 - - - - -

For SI: 1 cubic foot per minute = 0.0004719 m<sup>3</sup>/s, 1 ton = 908 kg,

1 cubic foot per minute per square foot = 0.00508 m<sup>3</sup>/(s m<sup>2</sup>),

C = [(F) -32]/1.8, 1 square foot = 0.0929 m<sup>2</sup>.

a. Based upon net occupiable floor area  
b. Mechanical exhaust required and the recirculation of air from such spaces is prohibited (see Section 403.2.1, Item 3).

c. Spaces unheated or maintained below 50° F are not covered by these requirements unless the occupancy is continuous.

d. Ventilation systems in enclosed parking garages shall comply with Section 404.

e. Rates are per water closet or urinal. The higher rate shall be provided where periods of heavy use are expected to occur, such as, toilets in theaters, schools, and sports facilities. The lower rate shall be permitted where periods of heavy use are not expected.

f. Rates are per room unless otherwise indicated. The higher rate shall be provided where the exhaust system is designed to operate intermittently. The lower rate shall be permitted where the exhaust system is designed to operate continuously during normal hours of use.

g. Mechanical exhaust is required and recirculation is prohibited except that recirculation shall be permitted where the resulting supply airstream consists of not more than 10 percent air recirculated from these spaces (see Section 403.2.1, Items 2 and 4).

h. For nail salons, the required exhaust shall include ventilation tables or other systems that capture the contaminants and odors at their source and are capable of exhausting a minimum of 50 cfm per station.

**Section 403.4** Add new section to read as shown: (M44-06/07)

403.4 Exhaust Ventilation. Exhaust airflow rate shall be provided in accordance with the requirements in Table 403.3. Exhaust makeup air shall be permitted to be any combination of outdoor air, recirculated air and transfer air, except as limited in accordance with Section 403.2.

**Section 403.5** Relocated from Section 403.3.1 with no change to current text: (M44-06/07)

**Section 403.6** Relocated from 403.3.3 and changed to read as shown: (M44-06/07)

403.6 Variable air volume system control. Variable air volume air distribution systems, other than those designed to supply only 100-percent outdoor air, shall be provided with controls to regulate the flow of outdoor air. Such control system shall be designed to maintain the flow rate of outdoor air at a rate of not less than that required by Section 403.3 over the entire range of supply air operating rates.

**Section 403.7** Relocated from Section 403.3.4 and changed to read as shown: (M44-06/07)

403.7 Balancing. The ventilation air distribution system shall be provided with means to adjust the system to achieve at least the minimum ventilation airflow rate as required by Sections 403.3 and 403.4. Ventilation systems shall be balanced by an approved method. Such balancing shall verify that the ventilation system is capable of supplying and exhausting the airflow rates required by Sections 403.3 and 403.4.

5. - 6. ...

7. National Electric Code, 2008 Edition. This Code is to become effective on January 1, 2010.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 40:1730.22(C) and (D) and 40:1730. 26 (1).

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:292 (February 2007), amended LR 34:93 (January 2008), LR 34:883 (May 2008), LR34:2205 (October 2008), LR 35:

#### **Family Impact Statement**

1. The Effect of This Rule on the Stability of the Family. This Rule should not have any 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 should not have any 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 should not have any effect on the functioning of the family.

4. The Effect of This Rule on Family Earnings and Family Budget. This Rule should not have any effect on family earnings and family budget.

5. The Effect of This Rule on the Behavior and Personal Responsibility of Children. This Rule should not have any effect on the behavior and personal responsibility of children.

6. The Effect of This Rule on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rule. This Rule should not have any effect on the ability of the family or local government to perform the function as contained in the proposed rules.

Interested persons may submit written comments or requests for a public hearing on this proposed Rule change to Paul Schexnayder, Attorney for the Louisiana State Uniform Construction Code Council, at 7979 Independence Boulevard, Suite 307, Baton Rouge, LA 70806. Comments will be accepted through close of business July 10, 2009.

Denise Jobe  
Administrator

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: State Uniform Construction Code International Mechanical Code**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rule changes are not anticipated to result in additional state or local government costs or savings. These rule changes adopt the 2008 edition of the National Electric Code and adopt certain revisions to the International Mechanical Code made in 2007.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There should be no effect on revenue collections as a result of these rules.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The adoption of these code provisions will have an indeterminate effect on the construction costs incurred by commercial building owners and builders, as well as homeowners and home builders, as a result of various changes in the respective codes. The revisions to the International Mechanical Code may result in savings to commercial building owners and builders due to requirement therein which are less costly and result in more efficient buildings when compared to the requirements found in the 2006 edition of that code. The adoption of the 2008 edition of the National Electric Code will have an indeterminate effect on savings from possible reduced

construction costs of homes and buildings. Due to the various revisions in each code, it is not possible to quantify these possible savings.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change should not significantly affect competition or employment.

Jill P. Boudreaux  
Undersecretary  
0906#033

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Revenue  
Policy Services Division**

Point of Sale for Jurisdiction Where Sales and/or  
Use Tax Is Due (LAC 61:I.4313)

The Department of Revenue, Office of the Secretary, as authorized by and pursuant to the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., and the authority of R.S. 47:1511, hereby gives notice of its intent to adopt LAC 61:I.4313 relative to the point of sale determining the taxing jurisdiction where sales and/or use tax is due.

**Title 61**

**REVENUE AND TAXATION**

**Part I. Taxes Collected and Administered by the  
Secretary of Revenue**

**Chapter 43. Sales and Use Tax**

**§4313. Point of Sale for Jurisdiction Where Sales Tax Is  
Due**

A. The term *sale* is defined at R.S. 47:301(12). It states, in part, that a sale is any transfer of title or possession or both, exchange, barter, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property, for a consideration. "Use" tax is the equivalent of a sales tax placed on goods purchased outside of a jurisdiction for use within the jurisdiction where the property comes to rest, or otherwise where it comes to be used.

B. Sales taxes are due in the jurisdiction in which the buyer takes physical possession of the property. *Delivery* is defined as the point in time where the obligations of the seller are at an end and the transfer of risk of loss has passed from the seller or its agent and/or carrier to the buyer or the buyer's agent and/or carrier, and possession transfers.

C. There are three points of delivery where sales tax attaches to a transaction. When the buyer or his agent takes physical possession within the seller's jurisdiction, the sale has occurred and sales taxes are due in seller's jurisdiction. When the seller or his agent delivers to the buyer's jurisdiction, possession by the buyer is the point of sale, and sales or use taxes are due at buyer's jurisdiction. When the buyer or his agent takes possession outside of buyer's and seller's jurisdiction, sales or use taxes are due at that location. If the buyer or his agent moves the property to a subsequent jurisdiction, then use taxes may be due at the subsequent jurisdiction.

D. When there is no writing evidencing the sale, or where the purchase agreement or bill of lading or other writing does not specifically state, or inaccurately states the location where the buyer takes physical possession of the

property, the evidence of the parties showing their respective obligations determines when delivery by the seller and possession by the buyer has occurred. Point of sale is not affected by the type of carrier chosen to move the property, be it common carrier, contract carrier, or a party's carrier or truck.

E. The collector may rebut a presumption that when the transportation charges of the property from seller's location to the buyer's location is stated as arranged by the buyer or his agent, the point of sale occurred in the seller's location or jurisdiction. Transfer of risk of loss is the presumptive factor for transfer of physical possession.

F. Sales of vehicles and motor vehicles subject to the Registration License Fee or Tax set forth in R.S. 47:451 et seq., are not subject to the provisions of above regulation, but are subject to all applicable statutes for payment of sales, use, or other tax or fee set forth in R.S. 47:301 et seq., and R.S. 47:451 et seq.

AUTHORITY NOTE: Promulgated in Accordance with R.S. 47:301 and R.S. 47:1511, in conjunction with R.S. 47:337.2(C)(4).

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Policy Services Division, LR 35:

**Family Impact Statement**

The proposed adoption of LAC 61:I.4313, regarding the taxing jurisdiction where applicable sales and/or use taxes are due should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. The implementation of this proposed Rule will have no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budgets;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform this function.

Interested persons may submit written data, views, arguments or comments regarding this proposed Rule to Raymond Tangney, Senior Policy Consultant, Policy Services Division, Office of Legal Affairs by mail to P.O. Box 44098, Baton Rouge, LA 70804-4098. All comments must be submitted no later than July 29, 2009. A public hearing will be held on July 30, 2009 at 2:30 p.m. in the River Room located on the seventh floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA 70802.

Cynthia Bridges  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Point of Sale for Jurisdiction Where  
Sales and/or Use Tax Is Due**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENT UNITS (Summary)

This proposed regulation is a restatement of law on the jurisdiction where sales taxes and use taxes are paid. It makes no change to current law. There are no anticipated

implementation costs to be incurred, nor any savings anticipated. The intent is to clarify and/or explain existing law.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The adoption of this proposed regulation will have no impact on the revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The adoption of the proposed regulation should assist taxpayers and practitioners in the proper collection and/or payment of sales and use taxes. There should be no taxpayer cost associated with the adoption of this regulation.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed amendment should not affect competition or employment.

Cynthia Bridges  
Secretary  
0906#030

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Department of Social Services Office of Community Services

#### Chafee Foster Care Independence Program and Young Adult Program (LAC 67:V.Chapter 39)

In accordance with the provision of R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Social Services (DSS), Office of Community Services (OCS), intends to adopt the rule, LAC 67:V, Subpart 5, Foster Care, Chapter 39, §3901, Chafee Foster Care Independence Program and §3903, Young Adult Program.

#### Title 67

#### SOCIAL SERVICES

#### Part V. Office of Community Services

#### Subpart 5. Foster Care

#### Chapter 39. Chafee Foster Care Independence Program and Young Adult Program

#### §3901. Chafee Foster Care Independence Program

A. The Department of Social Services, Office of Community Services (OCS) will provide a Chafee Foster Care Independence Program (CFCIP) to assist youth in making preparations for living independently, including, but not limited to résumé writing, budgeting, banking and other financial skills, and conflict management skills. The CFCIP provides opportunities for youth to interact with other youth from similar backgrounds, and to receive supportive services until 21 years of age, with the exception of educational assistance via the Chafee Educational and Training Voucher (ETV), which is available until 23 years of age.

B. The OCS will provide CFCIP services based upon the availability of funds, up to the maximum allowable amount funded by the federal Chafee Act, in compliance with the requirements of the program, and, the varying identified needs of each youth.

C. Eligibility for the CFCIP is limited to youth who meet the requirements of the program and is based on the availability of federal funding. Participants should be either:

OCS foster youth from 13 years of age to 21 years of age or youth who were adopted after 16 years of age to 21 years of age; Office of Juvenile Justice youth from 13 years of age to 21 years of age; youth in a court ordered guardianship after 16 years of age; and/or, Native American youth from 13 years of age to 21 years of age who are in state or tribal custody. Youth in a secure placement (detention, jail, etc.) are not eligible for services provided by Chafee funds.

D. The allowable services and activities must be purposefully planned by the foster care worker and the youth to meet specific needs that have been identified and addressed in the youth's transitional living plan. The allowable services may include: training delivered by Chafee Independent Living Providers contracted with OCS to prepare youth for living independently; an assessment and survey of independent living skills to identify which skills are needed; a written individualized independent living skills plan, based on the assessment and an individualized transitional living plan; a monetary payment/stipend upon completing the CFCIP coursework and questionnaire; assistance with obtaining independent living arrangement and/or housing; and, assistance with educational expenses, which could include educational and training voucher services, with need being determined by contracted providers.

AUTHORITY NOTE: Promulgated in accordance with 42. U. S. C. 677 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 35:

#### §3903. Young Adult Program

A. The OCS will provide a Young Adult Program (YAP), based on the availability of funds, to assist youth in transitioning to living independently and to help prevent homelessness for youth aging out of foster care. Participation in the YAP provides participants with benefits such as: educational funding assistance not otherwise provided by government grants, including the Chafee ETV; short term emergency mental health services; suitable clothing for educational or employment purposes; supportive assistance for the youth's educational requirements, such as, school supplies, monthly board assistance, a Medicaid card, transportation assistance, and the ability to remain in the YAP to 21 years of age.

B. Eligibility for the YAP is limited to foster care youth and former foster care youth who meet the requirements of the program upon reaching 18 years of age. Requirements include the following.

1. The young adult must be/have been in foster care upon reaching 18 years of age, and, be in need of continued assistance to complete an educational or vocational program, or, to obtain employment.

2. The young adult must be:

a. enrolled in a high school to obtain a high school diploma;

b. enrolled in GED classes and also working part-time;

c. enrolled in and attending a Louisiana public technical or community college; or

d. accepted into and attending an approved Louisiana public college or university.

3. The young adult must apply for and provide documentation of application for the ETV, Pell grants, Go

grants or other similar governmental grants prior to approval for YAP educational benefits.

4. The young adult may remain in the YAP for a maximum of three months in order to obtain employment or have a source of income and be searching for a place to live independently.

5. The young adult must live in a foster family home or in a college dormitory, apartment or in their own apartment, if receiving their own board rate.

6. Youth in a secure placement (detention, jail, etc.) are not eligible for services provided by Chafee funds.

C. Participants must meet the requirements of the program, and, have individual identified needs as outlined in the program guidelines. The maximum allowable amount for a youth participating in the YAP will vary according to the specific needs of the youth and the guidelines for services funded by the federal Chafee Act.

D. Participation is voluntary and by contract with the OCS. The contract shall state the actions expected of the youth and the services that the OCS will provide. The YAP participant may cancel his/her contract with the OCS at any time. The OCS may cancel the YAP participant contract at any time the youth is in non-compliance with the terms of the agreement.

AUTHORITY NOTE: Promulgated in accordance with DSS Statutes RS 36:471 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 35:

#### **Family Impact Statement**

1. The Effect on the Stability of the Family. By providing services to assist youth to prepare for living independently, youth will have opportunities to learn and grow into mature adults who can provide safe and stable living situations for themselves and their own prospective families.

2. The Effect on the Authority and Rights of Parents Regarding Education and Supervision of Their Children. The CFCIP service is provided only to youth who are 13 years of age to 21 years of age, who have been removed by court order from their parent's custody to protect their safety and well being. If the court has not terminated parental rights, the parents, as well as the foster parents, may participate in case planning for services needed by the youth until the youth reaches 18 years of age. The YAP services are only provided to youth who have reached 18 years of age and who meet the requirements of the program. The youth may determine if and to what degree he or she wants his or her parents' involvement in case planning and services.

3. The Effect on the Functioning of the Family. The provision of the CFCIP and the YAP services, as described above, will enhance the functioning of the family unit and promote a stable future for the young adult. The youth/young adult will develop a healthy awareness of, and, relationships with community resources.

4. The Effect on Family Earnings and Family Budget. The provision of the CFCIP and the YAP will assist in enabling youth to obtain educational and vocational training that will allow the youth to pursue employment to provide for self and family. Participation in CFCIP and YAP may

afford the youth support to obtain educational and vocational training that may otherwise be unavailable to the youth.

5. The Effect on the Behavior and Personal Responsibility of Children. The guidance and supportive services provided to the CFCIP and YAP participant may improve the youth's self-esteem while allowing him or her to develop skills and knowledge needed to function as a responsible adult in the community.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. The programs provide supportive assistance that the youth's family is not able to offer the youth and that is not otherwise available through community resources.

All interested persons may submit written comments through July 24, 2009, to Kaaren Hebert, Assistant Secretary, Office of Community Services, and P.O. Box 3318, Baton Rouge, LA 70821.

Kristy H. Nichols  
Secretary

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Chafee Foster Care Independence Program and Young Adult Programs**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The Department of Social Services, Office of Community Services, proposes to adopt as a rule LAC 67:V, Subpart 5, Foster Care, Chapter 39; §3901, Chafee Foster Care Independence Program (CFCIP) and, §3903, Young Adult Program (YAP) to codify these existing programs into law. The CFCIP assists youth with making preparations for independent living by providing resume writing, budgeting, banking and other financial skills, and conflict management skills training. The CFCIP currently serves 1,683 participants from ages 13-21 and is currently funded with \$1.4M Federal Chafee grant funds. YAP assists youth aging out of foster care with benefits such as educational funding, short-term emergency health services, transportation assistance, and monthly board assistance. The YAP serves 320 participants from ages 18-21 and is currently funded with \$1.5M State General Funds. Funding source and level is subject to change in the fiscal year of implementation.

The only cost associated with this rule is the cost of publishing rulemaking, which is estimated to be \$246 (\$123 State General Fund; \$123 Federal). This one time cost is included in the agency's budget. No other costs are anticipated because these are existing programs that have been operating since 1999. The continued operation of these programs in future fiscal years is based on the availability of funds.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

This rule will have no effect on revenue collections of state or local governmental units as the funds are currently appropriated in the OCS budget for these programs.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The participants of these programs will continue to benefit economically by acquiring life skills and educational training that will help them to become independent and self sufficient.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)

The proposed rule should have no impact on competition and employment.

Kaaren Hebert  
Assistant Secretary  
0906#049

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Transportation and Development  
Professional Engineering and Land Surveying Board**

Committees, Examination, Licensure, Seal, and Signature  
(LAC 46:LXI.105, 707, 909, 1301, 1315, and 2701)

Under the authority of the Louisiana Professional Engineering and Land Surveying Licensure Law, R.S. 37:681 et seq., and in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Louisiana Professional Engineering and Land Surveying Board has initiated procedures to amend its rules contained in LAC 46:LXI.Chapters 1 through 33.

The amendment is primarily a technical housekeeping revision of existing board rules.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part LXI. Professional Engineers and Land Surveyors**

**Chapter 1. General Provisions**

**§105. Definitions**

A. The words and phrases defined in R.S. 37:682 shall apply to these rules. In addition, the following words and phrases shall have the following meanings, unless the content of the rules clearly states otherwise.

\* \* \*

*Signature*—handwritten or digital as follows:

- a. a handwritten message identification containing the name of the person who applied it; or
- b. a digital representation of a person's handwritten signature.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Surveyors, LR 4:298 (August 1978), amended LR 5:110 (May 1979), LR 7:643 (December 1981), LR 14:449 (July 1988), LR 16:772 (September 1990), LR 17:804 (August 1991), LR 20:901 (August 1994), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1020 (July 2001), LR 30:1704 (August 2004), LR 32:1618 (September 2006), LR 35:

**Chapter 7. Bylaws**

**§707. Board Organization**

A. - D.4 ...

E. Committees. The board may establish standing committees, including but not limited to the following: Executive Committee, Civil Engineering Committee, Other Disciplines Engineering Committee, Land Surveying Committee, Engineer Intern Committee, Liaison and Law Review Committee, Education/Accreditation Committee,

Finance Committee, Nominations and Awards Committee, Complaint Review Committees, Continuing Professional Development Committee, and Architect-Engineer Liaison Committee. The board may also establish ad hoc committees from time to time as necessary.

1. - 9. ...

10. Complaint Review Committees. Complaint review committees may be composed of two standing members (the executive secretary or deputy executive secretary and the board attorney) and up to three board members appointed on a case-by-case basis. It shall be the responsibility of each committee to review the results of investigations against licensees, certificate holders and unlicensed persons and recommend appropriate action to the board.

11. - 12. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:52 (February 1976), amended LR 5:110 (May 1979), LR 11:1179 (December 1985), LR 19:54 (January 1993), LR 21:1353 (December 1995), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1024 (July 2001), LR 30:1707 (August 2004), LR 33:2788 (December 2007), LR 35:

**Chapter 9. Requirements for Certification and  
Licensure of Individuals and Temporary  
Permit to Practice Engineering**

**§909. Land Surveyor Licensure**

A. The requirements for licensure as a professional land surveyor under the two alternatives provided in the licensure law are as follows:

1. ...

2. the applicant shall be an individual who holds a valid license to engage in the practice of land surveying issued to him/her by the proper authority of a state, territory, or possession of the United States, or the District of Columbia, based on requirements that do not conflict with the provisions of the licensure law, and which were of a standard not lower than that specified in the applicable licensure law in effect in Louisiana at the time such license was issued, who is of good character and reputation, who has passed a written examination on the fundamentals of land surveying, principles and practice of land surveying and Louisiana laws of land surveying, who has submitted an application for licensure in accordance with the requirements of R.S. 37:694, and if the state, territory, or possession, or the District of Columbia in which he/she is licensed will accept the licenses issued by the board on a comity basis, and who was duly licensed as a professional land surveyor by the board.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:244 (August 1976), amended LR 2:352 (November 1976), LR 5:114 (May 1979), LR 6:735 (December 1980), LR 7:645 (December 1981), LR 11:362 (April 1985), LR 16:773 (September 1990), LR 19:56 (January 1993), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying

Board, LR 27:1029 (July 2001), LR 30:1713 (August 2004), LR 32:1619 (September 2006), LR 35:

### **Chapter 13. Examinations**

#### **§1301. General**

A. - B. ...

C. Timely filing of an application with the board does not assure that an applicant will be permitted to take an examination, or be scheduled for examination on a particular date. Effective until January 1, 2010 and ending with the April 2010 exam administration, to be considered for a specific examination date, the application should be received at the board office no later than the following number of days prior to a particular examination scheduled by the board: fundamentals of engineering, 150 days; fundamentals of land surveying, 150 days; principles and practice of engineering, 150 days; principles and practice of land surveying and the Louisiana laws of land surveying, 180 days. Effective January 1, 2010 and beginning with the October 2010 exam administration, to be considered for a specific examination date, the application for the following examinations should be received at the board office no later than January 1 for the April examination administration and July 1 for the October examination administration: fundamentals of engineering; fundamentals of land surveying; principles and practice of engineering; principles and practice of land surveying; and Louisiana laws of land surveying.

D. - F.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:113 (May 1979), amended LR 7:647 (December 1981), LR 11:363 (April 1985), LR 16:774 (September 1990), LR 19:57 (January 1993), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1030 (July 2001), LR 30:1714 (August 2004), LR 35:

#### **§1315. Re-Examinations**

A. ...

B. After an individual has failed an examination in any and all jurisdictions for the third time, he/she is not eligible to apply to retake the examination for the next two consecutive test cycles. If an individual has failed an examination in any and all jurisdictions five or more times, following each successive failed examination he/she is not eligible to apply to retake the examination for the next two consecutive test cycles and must successfully complete a review course approved by the board prior to reapplying.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:353 (November 1976), amended LR 4:516 (December 1978), LR 5:114 (May 1979), LR 7:647 (December 1981), LR 12:692 (October 1986), LR 16:774 (September 1990), LR 19:57 (January 1993), amended by the Department of Transportation and Development, Professional

Engineering and Land Surveying Board, LR 27:1031 (July 2001), LR 30:1715 (August 2004), LR 32:1620 (September 2006), LR 35:

### **Chapter 27. Use of Seals**

#### **§2701. Seal and Signature**

A. The following rules for the use of seals to identify work performed by a professional engineer or professional land surveyor shall be binding on every licensee.

1. - 1.a.ii. ...

2. Seal Design and Signature Requirements

a. - d. ...

e. Computer generated seals of the same design and size may be used.

f. A seal must always be accompanied by the licensee's signature and date. The signature and date must be placed adjacent to or across the seal.

\* \* \*

3. - 4.c.i.(e). ...

5. Electronic Transmission

a. Drawings, specifications, plans, reports or other documents which require a seal may be transmitted electronically provided the seal, signature and date of the licensee is transmitted in a secure mode that precludes the seal, signature and date being produced or modified.

b. Originally-sealed drawings, specifications, plans, reports or other documents which no longer require a seal may be transmitted electronically but shall have the generated seal, if any, removed before transmitting and shall have the following inserted in lieu of the signature and date:

"This document originally issued and sealed by (name of licensee and license number) on (date of sealing). This document should not be considered a certified document."

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:696.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 8:192 (April 1982), amended LR 12:692 (October 1986), LR 16:774 (September 1990), LR 17:273 (March 1991), LR 19:58 (January 1993), LR 22:287 (April 1996), LR 23:869 (July 1997), amended by the Louisiana Legislature, House Concurrent Resolution Number 2 of the 1998 First Extraordinary Session, LR 24:1207 (June 1998), repromulgated by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 25:1525 (August 1999), amended LR 27:1039 (July 2001), LR 30:1723 (August 2004), LR 33:2789 (December 2007), LR 34:2415 (November 2008), LR 35:

#### **Family Impact Statement**

In accordance with R.S. 49:953(A)(1)(a)(viii) and 972, the following Family Impact Statement is submitted with the Notice of Intent for publication in the Louisiana Register: The proposed Rule has no known impact on family formation, stability or autonomy

Interested parties are invited to submit written comments on the proposed Rule through July 10, 2009 at 4:30 p.m., to Donna D. Sentell, Executive Secretary, Louisiana Professional Engineering and Land Surveying Board, 9643 Brookline Avenue, Suite 121, Baton Rouge, LA 70809-1433.

Donna D. Sentell  
Executive Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Committees, Examination, Licensure,  
Seal, and Signature**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no costs or savings to state or local  
governmental units resulting from these rule changes.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE  
OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or  
local governmental units as a result of this proposed action.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO  
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL  
GROUPS (Summary)

The proposed rule changes will have no impact on costs  
and/or economic benefits to directly affected persons or non-  
governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)

The proposed rule changes will have no effect on  
competition and employment.

Donna D. Sentell  
Executive Director  
0906#017

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

# Potpourri

## POTPOURRI

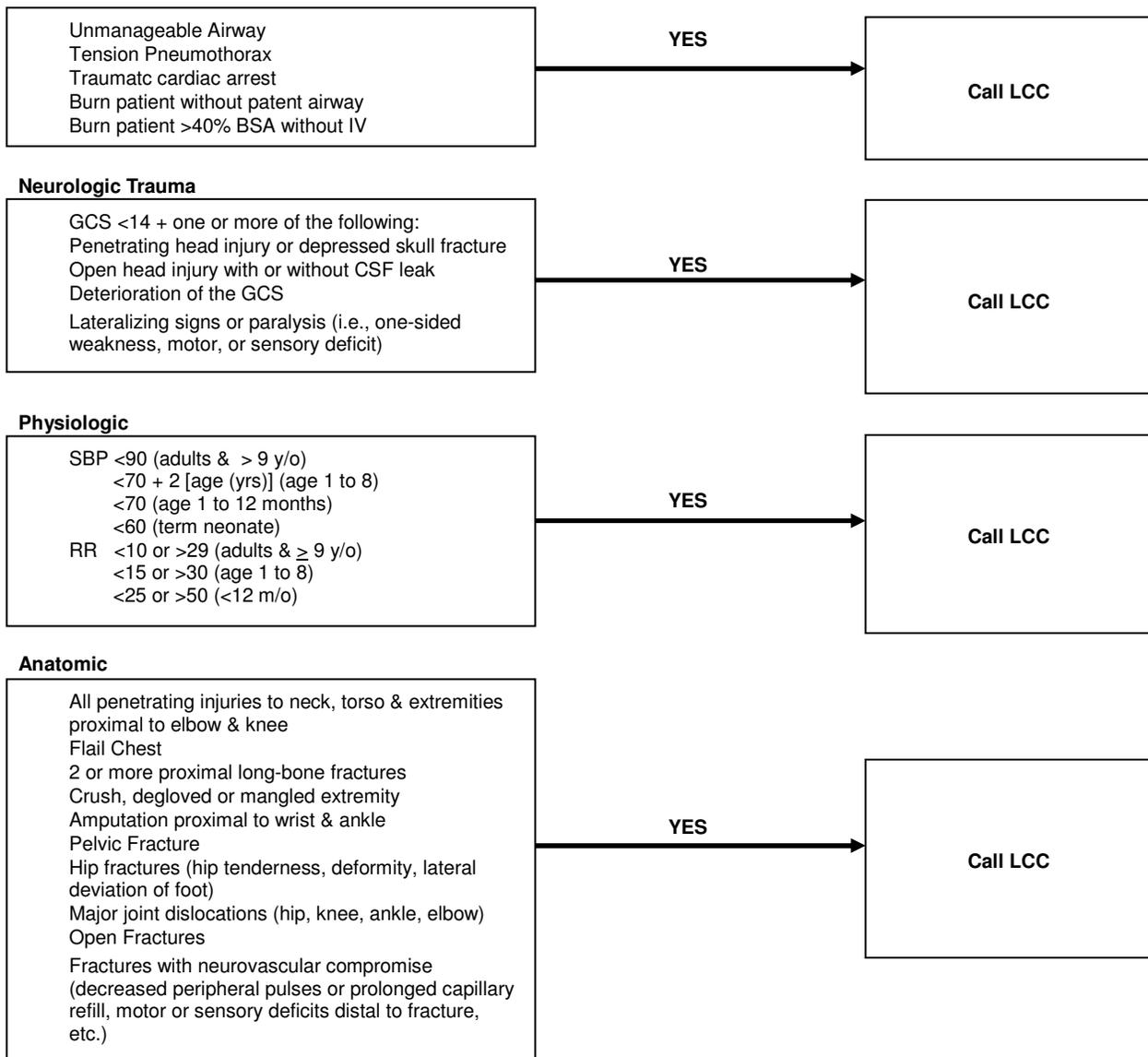
### Department of Health and Hospitals Emergency Response Network Board

#### Entry Criteria and Region 4 LERN LCC Destination Protocol

promulgated "LERN Entry Criteria" and "LERN Region 4 LCC Destination Protocol" for Region 4 of the Louisiana Emergency Response Network (La. R.S. 40:2842(3)), which region includes the parishes of Acadia, Evangeline, Iberia, Lafayette, St. Martin, St. Landry, and Vermilion, as follows:

On November 15, 2007, the Louisiana Emergency Response Network Board [R.S. 40:2842(1)] adopted and

#### LERN ENTRY CRITERIA



**Mechanism**

Falls > 20 ft. (adults)  
 > 10 ft. (child) or 2 to 3 times height  
 High-risk auto crash  
 Intrusion > 12 in, occupant site:  
 >20 in. any site  
 Ejection, partial or complete from automobile  
 Death in same passenger compartment  
 Auto vs. pedestrian/bicyclist thrown, run over or >5 MPH impact  
 Motorcycle crash >20 MPH

YES

Call LCC

**Special**

Pregnancy >20 weeks  
 Burns (will follow ABA guidelines)

YES

Call LCC

**Other**

Age ≥55 y/o or <8 y/o  
 Anticoagulation & bleeding disorders  
 End stage renal disease  
 Transplant patients

YES

Call LCC

**LERN Region 4 LCC Destination Protocol**

Unmanageable Airway  
 Tension Pneumothorax  
 Traumatic cardiac arrest  
 Burn patient without patent airway  
 Burn patient >40% BSA without IV

YES

Closest ED

NO

**Neurologic Trauma**

GCS <14 + one or more of the following:  
 Penetrating head injury or depressed skull fracture  
 Open head injury with or without CSF leak  
 Deterioration of the GCS  
 Lateralizing signs or paralysis (i.e., one-sided weakness, motor, or sensory deficit)

YES

LERN Level II

NO

**Physiologic**

SBP <90 (adults & > 9 y/o)  
 <70 + 2 [age (yrs)] (age 1 to 8)  
 <70 (age 1 to 12 months)  
 <60 (term neonate)  
 RR <10 or >29 (adults & ≥ 9 y/o)  
 <15 or >30 (age 1 to 8)  
 <25 or >50 (<12 m/o)

YES

LERN Level II or III

NO

**Anatomic**

All penetrating injuries to neck, torso & extremities proximal to elbow & knee  
Flail Chest  
2 or more proximal long-bone fractures  
Crush, degloved or mangled extremity  
Amputation proximal to wrist & ankle  
Pelvic Fracture  
Hip fractures (hip tenderness, deformity, lateral deviation of foot)  
Major joint dislocations (hip, knee, ankle, elbow)  
Open Fractures  
Fractures with neurovascular compromise (decreased peripheral pulses or prolonged capillary refill, motor or sensory deficits distal to fracture, etc.)

YES

LERN  
Level II or III

**Mechanism**

Falls > 20 ft. (adults)  
> 10 ft. (child) or 2 to 3 times height  
High-risk auto crash  
Intrusion > 12 in, occupant site:  
>20 in. any site  
Ejection, partial or complete from automobile  
Death in same passenger compartment  
Auto vs. pedestrian/bicyclist thrown, run over or >5 MPH impact  
Motorcycle crash >20 MPH

YES

LERN  
Level II or III

NO

**Special**

Pregnancy >20 weeks  
Burns (will follow ABA guidelines)

YES

LERN  
Level II or III

NO

**Other**

Age ≥55 y/o or <8 y/o  
Anticoagulation & bleeding disorders  
End stage renal disease  
Transplant patients

YES

LERN  
Level II, III or IV

On June 26, 2008, the Louisiana Emergency Response Network Board passed a resolution allowing any Region of the Louisiana Emergency Response Network which agreed to use the foregoing "LERN Entry Criteria" and "LERN Region 4 LCC Destination Protocol" to begin operating using the "LERN Entry Criteria" and "LERN Region 4 LCC Destination Protocol" set forth above.

Coletta Barrett, RN, MHA  
Chair

0906#009

**POTPOURRI**

**Department of Health and Hospitals  
Emergency Response Network Board**

**Region 7 LERN Entry and Destination Protocols**

On November 15, 2007, the Louisiana Emergency Response Network Board [R.S. 40:2842(1)] adopted and promulgated "Region 7 LERN Entry and Destination

Protocol" for Region 7 of the Louisiana Emergency Response Network (La. R.S. 40:2842(3)), which region includes the parishes of Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Red River, Sabine and Webster, as follows:

**Region 7 LERN Entry and Destination Protocol**

Traumatic patients who meet the following criteria will be entered to LERN Call Center and should be transported directly to LSUHSC in Shreveport, Louisiana, if possible:

1. Airway compromise (intubated, apneic, or obstructed airway).
2. Penetrating wound of head, neck, chest, abdomen, groin, or buttocks.
3. Blood pressure ≤ 100 or signs of shock.
4. GCS 12 or less.
5. New onset neurological deficit associated with traumatic event.
6. Extremity wound with absent pulse OR amputation proximal to foot or hand.

Trauma patients who meet the following criteria, and are located outside the city limits of Shreveport and Bossier

City, should be taken to nearest hospital for immediate stabilization followed by continued rapid transport to LSUHSC Shreveport per the LERN Hospital Protocol:

1. Unable to establish and maintain adequate airway/ventilation.
2. Hypotension unresponsive to crystalloids (no more than 2 L).
3. Patients who meet trauma center criteria but have a transport time > 60 minutes.
4. Traumatic arrest.

On May 8, 2008, the Louisiana Emergency Response Network Board (La. R.S. 40:2842(1)) amended and promulgated, as amended, "Region 7 LERN Entry and Destination Protocol" for Region 7 of the Louisiana Emergency Response Network (La. R.S. 40:2842(3)), which region includes the parishes of Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Red River, Sabine and Webster, which protocol was originally adopted and promulgated on November 15, 2007, so that the "Region 7 Louisiana Emergency Response Network Entry and Destination Protocol," as amended, effective May 8, 2008, is as follows:

#### **Region 7 LERN Entry and Destination Protocol**

Traumatic patients who meet the following criteria will be entered to LERN Call Center and should be transported directly to LSUHSC in Shreveport, if possible:

1. Airway compromise (intubated, apneic, or obstructed airway).
2. Penetrating wound of head, neck, chest, abdomen, groin, or buttocks.
3. Blood pressure  $\leq$  100 or signs of shock.
4. GCS 12 or less.
5. New onset neurological deficit associated with traumatic event.
6. Extremity wound with absent pulse OR amputation proximal to foot or hand.
7. Burn Patients as identified following ABA guidelines.

8. Healthcare Provider Discretion as defined as: "Patients evaluated by hospitals may be entered into LERN if the evaluating hospitals medical personnel determines the patient has a medical condition requiring immediate surgical evaluation and/or intervention and the transferring hospital does not have these services immediately available at that facility (Healthcare Provider Discretion this does not include orthopedic injuries)."

Patients that have been entered into LERN but will require greater than 60 minute transport time from the field should stop at local area hospitals for stabilization. These patients should still be entered into LERN from the field but will require transport to local area hospitals for stabilization. LERN will facilitate the movement of these patients from the local hospital once stabilizing measures are completed. The following are conditions requiring immediate stabilization by local area hospitals.

1. Unable to establish and maintain adequate airway/ventilation.
2. Hypotension unresponsive to crystalloids (no more than 2 L).
3. Patients who meet trauma center criteria but have a transport time > 60 minutes.
4. Traumatic arrest.

The following will be routed directly to the LSUHSC Burn Unit from local area hospitals or from the field.

1. Partial-thickness and full thickness burns greater than 10 percent of the total body surface area (TBSA) in patients younger than 10 years of age or older than 50 years of age;
2. Partial-thickness and full thickness burns greater than 20 percent of the total body surface area (TBSA) in other age groups;
3. Partial-thickness and full thickness burns involving the face, eyes, ears, hands, feet, genitalia, perineum, or skin overlying major joints;
4. Full-thickness burns greater than 5 percent TBSA in any age group;
5. Electrical burns, including lightning injury;
6. Chemical burns;
7. Patients with inhalation injury;
8. Burn injury in patients with pre-existing illnesses that could complicate management, prolong recovery, or adversely affect mortality risk;
9. Any burn patient in whom concomitant trauma poses an increased risk of morbidity or mortality may be treated initially in a trauma center until stable before transfer to a burn center;
10. Children with burns seen in hospitals without qualified personnel or equipment for their care;
11. Burn injury in patients who will require special social and emotional or long-term rehabilitative support, including cases involving suspected child abuse or neglect.

Coletta Barrett, RN, MHA  
Chair

0906#008

#### **POTPOURRI**

#### **Department of Insurance Office of Health**

#### **Annual HIPAA Assessment Rate**

Pursuant to Louisiana Revised Statutes 22:1071(D)(2), the annual HIPAA assessment rate has been determined by the Department of Insurance to be .0005 percent.

James J. Donelon  
Commissioner

0906#047

#### **POTPOURRI**

#### **Department of Natural Resources Office of the Secretary**

Loran Coordinates

In accordance with the provisions of R.S. 56:700.1 et seq., notice is given that 15 claims in the amount of \$67,805.50 were received for payment during the period May 1, 2009 - May 31, 2009.

There were 15 claims paid and 0 claims denied.

Latitude/Longitude Coordinates of reported underwater obstructions are:

2902.961	9018.734	Lafourche
2914.038	8957.996	Jefferson
2914.102	8957.054	Jefferson
2914.700	9001.616	Jefferson
2917.669	9032.506	Terrebonne
2918.137	8946.692	Plaquemines
2918.625	8947.899	Plaquemines
2926.801	8958.454	Jefferson
2929.233	9000.292	Jefferson
2936.536	9002.410	Jefferson
2942.389	8947.080	Plaquemines
2949.598	8935.981	St. Bernard
2950.193	8941.324	St. Bernard
3008.350	8936.504	St. Bernard
2925.892	9001.684	Lafourche

A list of claimants and amounts paid can be obtained from Gwendolyn Thomas, Administrator, Fishermen's Gear Compensation Fund, P.O. Box 44277, Baton Rouge, LA 70804 or you can call (225) 342-0122.

Scott A. Angelle  
Secretary

0906#034

## POTPOURRI

### Department of Natural Resources Office of Conservation

#### Orphaned Oilfield Sites

Office of Conservation records indicate that the Oilfield Sites listed in the table below have met the requirements as set forth by Section 91 of Act 404, R.S. 30:80 et seq., and as such are being declared Orphaned Oilfield Sites.

Operator	Field	District	Well Name	Well Number	Serial Number
ATC Realty Eight, Inc.	Larose	L	10800 A Ra Sua;Jones 2	005	65731(30)
MCD Production, L.L.C.	Blackburn, East	S	U Dav Sua;Thelma Worley	001	74872
MCD Production, L.L.C.	Blackburn, East	S	Thelma Worley	001-D	77728
Arlis Scogin et al	Shreveport	S	Ellerbee et al	004	21895
W.T. Burton	Bayou Des Allemands	L	S J Simoneaux	001	33280
Great Southern Oil & Gas Co Inc	Wilmer, Northwest	L	L G Simmons	001	215358

James H. Welsh  
Commissioner

0906#029

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