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# Executive Orders

## EXECUTIVE ORDER KBB 04-06

Office of Urban Affairs and Development

WHEREAS, the State of Louisiana has a significant population of disadvantaged residents, especially in its urban areas;

WHEREAS, these disadvantaged citizens have special health, safety, and socio-economic concerns which most citizens of the State of Louisiana will never experience;

WHEREAS, these special concerns must be addressed before the quality of life for these inner-city dwellers will be enhanced and improved; and

WHEREAS, efforts to improve the quality of life for Louisiana's disadvantaged urban citizens can be coordinated, directed, and monitored more effectively from an office established within the Executive Department, Office of the Governor, rather than from an outside source;

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

SECTION 1: The Office of Urban Affairs and Development (hereafter "Office") shall be re-established within the executive department, Office of the Governor.

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

A. coordinating, directing, and monitoring all efforts to enhance the quality of life of the disadvantaged urban residents of the State of Louisiana;

B. providing, promoting, and coordinating enabling legislative initiatives to improve their quality of life;

C. providing, promoting, monitoring, and overseeing economic development programs and activities for disadvantaged urban residents;

D. disseminating information to various private agencies and state agencies which serve to enhance the

health, safety, and socio-economic welfare of the disadvantaged urban residents of the State of Louisiana;

E. advising the Governor on all issues relative to the affairs of Louisiana's disadvantaged urban citizens;

F. assisting the Office of the Governor in providing constituent services to these urban dwellers;

G. assessing grants recipients based on the criteria established in the grant application process; and

H. all other duties and functions requested by the governor.

SECTION 3: The Office shall be directed by a member of the executive staff, Office of the Governor.

SECTION 4: The Office shall have the necessary staff and resources to fulfill the duties and responsibilities specified in this Order.

SECTION 5: All departments, commissions, boards, agencies, and officers of the state, and any political subdivision thereof, are authorized and directed to cooperate with the Office in implementing the provisions of this Order.

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 22nd day of April, 2004.

Kathleen Babineaux Blanco  
Governor

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State  
0405#002

# Emergency Rules

## DECLARATION OF EMERGENCY

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

Application of the Pesticide 2, 4-D (LAC 7:XXIII.143)

In accordance with the Administrative Procedure Act R.S. 49:950(B) and R.S. 3:3202(A), the commissioner of Agriculture and Forestry is exercising the emergency provisions of the Administrative Procedure Act in amending the following Rule for the implementation of regulations governing the use of the pesticide 2, 4-D and products containing 2, 4-D.

The applications of 2, 4-D in certain parishes, in accordance with the current regulations and labels, have not been sufficient to control drift onto non-target areas. Failure to prevent the drift onto non-target areas will adversely affect other crops particularly cotton. The adverse effects to the cotton crop and other non-target crops will cause irreparable harm to the economy of Central Louisiana and to Louisiana Agricultural producers.

The department has, therefore, determined that this Emergency Rule implementing further restrictions on the application of 2, 4-D, and products containing 2, 4-D, during the current crop year, is necessary in order to alleviate these perils.

This Rule becomes effective on April 23, 2004 and will remain in effect 120 days.

#### Title 7

### AGRICULTURE AND ANIMALS

#### Part XXIII. Pesticide

#### Chapter 1. Advisory Commission on Pesticides

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

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

A. - O. ...

P. Regulations Governing Aerial Applications of 2, 4-D or Products Containing 2, 4-D

##### 1. Registration Requirements

a. The commissioner hereby declares that prior to making any commercial aerial or ground application of 2, 4-D or products containing 2, 4-D, as described in LAC 7:XXIII.143.P.3.a.i., the owner/operator must first register such intent by notifying the Division of Pesticides and Environmental Programs ("DPEP") in writing.

b. The commissioner hereby declares that all permits and written authorizations of applications of 2, 4-D or products containing 2, 4-D in the areas listed in LAC 7:XXIII.143.P.3.a.i., shall be a part of the record keeping requirements, and be in the possession of the owner/operator prior to application.

2. Grower Liability. Growers of crops shall not force or coerce applicators to apply 2, 4-D or products containing 2, 4-D to their crops when the applicators, conforming to the Louisiana Pesticide Law and rules and regulations or to the pesticide label, deem it unsafe to make such applications.

Growers found to be in violation of this section shall forfeit their right to use 2, 4-D or products containing 2, 4-D on their crops, subject to appeal to the Advisory Commission on Pesticides.

3. 2, 4-D or Products Containing 2, 4-D; Application Restriction

a. Aerial application of 2, 4-D or products containing 2, 4-D is limited to only permitted applications annually between April 3 and May 1 in the following parishes:

i. Allen (east of U.S. Highway 165 and north of U.S. Highway 190), Avoyelles (west of LA Highway 1), Evangeline, Pointe Coupee (west of LA Highway 1 and north of U.S. Highway 190), Rapides, and St. Landry (north of U.S. Highway 190).

ii. Applications of 2, 4-D, or products containing 2, 4-D, shall not be made in any manner by any commercial or private applicators between May 1 and August 1 in the areas listed in LAC 7:XXIII.143.P.3.a.i., except upon written application to and the specific written authorization by the Assistant Commissioner of the Office of Agricultural and Environmental Sciences, or in his absence the Commissioner of Agriculture and Forestry, commercial applications of 2, 4-D or products containing 2, 4-D in the area south of LA Highway 10, east of U.S. Highway 165 and north of U.S. Highway 190 in Allen Parish and south of LA Highway 104, north of U.S. Highway 190, west of LA Highway 13 in the Evangeline Parish and commercial ground and helicopter applications in the area south of LA Highway 376, north of LA Highway 104 and west of LA Highway 13 in Evangeline Parish.

4. Procedures for Permitting Applications of 2, 4-D or Products Containing 2, 4-D

a. Prior to any application of 2, 4-D, or products containing 2, 4-D, a permit shall be obtained in writing from the Louisiana Department of Agriculture and Forestry. Such permits may contain limited conditions of applications and shall be good for five days from the date issued. Growers or commercial ground or aerial applicators shall obtain permits from the director of Pesticides and Environmental Programs (DPEP). Commercial ground and aerial applicators shall fax daily to DPEP all permitted or written authorized applications of 2, 4-D or products containing 2, 4-D. The faxed information shall include but not be limited to the following:

- i. wind speed and direction at time of application;
- ii. temperature at time of application;
- iii. field location and quantity of acreage;
- iv. time of application;
- v. grower name, address and phone number;
- vi. owner/operator firm name, address and phone number;
- vii. applicator name, address, phone number and certification number;
- viii. product name and EPA registration number;
- ix. any other relevant information.

b. The determination as to whether a permit for application is to be given shall be based on criteria including but not limited to:

- i. weather patterns and predictions;
- ii. wind speed and direction;
- iii. propensity for drift;
- iv. distance to susceptible crops;
- v. quantity of acreage to be treated;
- vi. extent and presence of vegetation in the buffer zone;

zone;

vii. any other relevant data.

5. Monitoring of 2, 4-D or Products Containing 2, 4-D

a. Growers or owner/operators shall apply to the DPEP, on forms prescribed by the commissioner, all requests for aerial applications of 2, 4-D or products containing 2, 4-D.

b. All owner/operators and private applicators shall maintain a record of 2, 4-D or products containing 2, 4-D applications.

6. Determination of Appropriate Action

a. Upon determination by the commissioner that a threat or reasonable expectation of a threat to human health or to the environment exists, he may consider:

- i. stop orders for use, sales, or application;
- ii. label changes;
- iii. remedial or protective orders;
- iv. any other relevant remedies.

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 30:

Bob Odom  
Commissioner

0405#003

## DECLARATION OF EMERGENCY

Department of Agriculture and Forestry  
Office of the Commissioner

Pet Turtles *Salmonella spp.* (LAC 7:XXI.2311)

In accordance with the Administrative Procedure Act, specifically R.S. 49:953(B), and R.S. 3:3101 the Commissioner of Agriculture and Forestry intends to amend by emergency process the permanent Rule regarding microbiological testing procedures and quarantines for the farming and selling of Louisiana pet turtles.

The Department of Agriculture and Forestry is amending these rules and regulations to enhance the accuracy and consistency of the testing for salmonella by requiring that all follow up testing of positive samples be done by the same state operated reference laboratory; thereby providing maximum protection for the industry and the public in the production of a safe wholesome product and to further assist

the industry in its efforts to lift the FDA ban that was imposed on the sale of pet turtles in the United States and to increase the industry's ability to control *Salmonella spp.*

These emergency amendments to the permanent regulations become effective upon signature, April 27, 2004, and shall remain in effect 120 days from this day or until the final amendments become effective whichever may occur first.

## Title 7

### AGRICULTURE AND ANIMALS

#### Part XXI. Diseases of Animals

#### Chapter 23. Pet Turtles

#### §2311. Microbiological Test Procedures

A. - B ...

C. All groups of turtles or groups of turtle eggs that are found to be positive for *Salmonella spp.* shall be quarantined and disposed of as provided by law and these regulations. Provided, however, the owner of each group of turtles or group of turtle eggs that test positive for *Salmonella spp.* may, within the time prescribed by law for disposal of such pet turtles, subdivide the affected positive group into a maximum of four equal subgroups. Each such subgroup shall be separately identified, simultaneously randomly sampled and tested by the Louisiana Veterinary Medical Diagnostic Laboratory in accordance with normal protocol. The laboratory result of each subgroup of the previously test positive group shall be final. No further testing shall be allowed. Any subgroup which tests positive for *Salmonella spp.* shall be disposed of in accordance with the law and these regulations.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2, 3:2358.11 and 3:2358.12.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17:351 (April 1991), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 26:1570 (August 2000), LR 30:

Bob Odom  
Commissioner

0405#004

## DECLARATION OF EMERGENCY

Office of the Governor  
Division of Administration  
Racing Commission

Claiming Rule (LAC 35:XI.9905 and 9913)

Editor's Note: This Emergency Rule is being repromulgated to show the effective date for the December renewal and may be viewed in the April 20, 2004 edition of the *Louisiana Register* on page 724.

The Louisiana State Racing Commission is exercising the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to the authority granted under R.S. 4:141 et seq., redeclares the following Emergency Rule, which was effective December 19, 2003 and published in the December 20, 2003 edition of the *Louisiana Register*, now effective April 17, 2004, and it shall remain in effect for 120

days or until this Rule takes effect through the normal promulgation process, whichever comes first.

The Louisiana State Racing Commission finds it necessary to (1) readopt §9905 to ensure proper timing when claiming a horse, and (2) amend §9913 to protect the successful claimant's ownership at the moment the horse becomes a starter.

### **Title 35**

## **HORSE RACING**

### **Part XI. Claiming Rules and Engagements**

#### **Chapter 99. Claiming Rule**

##### **§9905. Timing of Entering Next Claiming Race**

Note: This rule is being reinstated; it was repealed in 1996.

A. Except as otherwise provided herein, a claimed horse shall not enter in starter, optional or claiming races for 30 days after being claimed in a race in which the determining eligibility price is less than 25 percent more than the price at which the horse was claimed. The day claimed shall not count, but the following calendar day shall be the first day and the horse shall be entitled to enter whenever necessary so the horse may start on the thirty-first day following the claim for any claiming price. This provision shall not apply to starter handicaps in which the weight to be carried is assigned by the handicapper. A similar rule in other states will be recognized and enforced.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142 and R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 30:

##### **§9913. Vesting of Title; Tests**

A. Title to a claimed horse shall be vested in the successful claimant at the time the horse becomes a starter. The successful claimant shall then become the owner of the horse whether alive or dead, sound or unsound, or injured at any time after leaving the starting gate, during the race or after. However, 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 infections anemia via a Coggins test. Should this test 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. The expense of the Coggins test and the maintenance of the horse during the period requested for the test shall be absorbed by the successful claimant. If such a test is requested the claimed horse will be sent to the retention barn of the Louisiana State Racing Commission where the state veterinarian will draw a blood sample, which sample shall be sent to a laboratory approved by the Louisiana Livestock Sanitary Board for the conduct of such test.

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:

Charles A. Gardiner III  
Executive Director

0405#008

## **DECLARATION OF EMERGENCY**

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

#### **Penalty Guidelines (LAC 35:I.1797)**

Editor' Note: This Emergency Rule was received by the Office of the State Register on April 23, 2004.

The Louisiana State Racing Commission is exercising the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to the authority granted under R.S. 4:141 et seq., adopts the following Emergency Rule effective March 29, 2004, and it shall remain in effect for 120 days or until this Rule takes effect through the normal promulgation process, whichever comes first.

The Louisiana State Racing Commission finds it necessary to adopt this Rule to protect horse owners from inflexibility in penalties (mandatory purse redistribution to be changed to optional) for equine drug violations in Classes IV and V, particularly when the trainer, not the owner, should be held accountable.

### **Title 35**

## **HORSE RACING**

### **Part I. General Provisions**

#### **Chapter 17. Corrupt and Prohibited Practices**

##### **§1797. Penalty Guidelines**

A. - B.3. ...

4. Classes IV and V: the trainer may be suspended for a period not more than 60 days and a fine of not less than \$500 nor more than \$1,500, or both, depending on the severity and number of violations occurring within a 12-month period. The purse may be redistributed on referral to the commission at its discretion.

a. On ordinary violation(s) of Classes IV or V within a 12-month period the trainer shall be fined \$500 on the first violation; \$1,000 on the second violation; \$1,000 on the third and subsequent violations and referred to the commission.

b. On extraordinary violation(s) of Classes IV or V in a manner that might affect the performance of a horse within a 12-month period the trainer shall be fined \$1,000 on the first offense; \$1,000 and referred to the commission for further action on second and subsequent violations.

c. On gross violation(s) of Classes IV or V in a manner that intends to affect the performance of a horse the trainer shall be fined not less than \$1,000 and referred to the commission for further action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 19:613 (May 1993), amended by the Office of the Governor, Division of Administration, Racing Commission, LR 28:1014 (May 2002), LR 30:

Charles A. Gardiner III  
Executive Director

0405#001

**DECLARATION OF EMERGENCY**

**Department of Social Services  
Office of Community Services**

Daycare Program (LAC 67:V.2301)

The Department of Social Services, Office of Community Services, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to amend LAC 67:V, Subpart 4, Family Services, Chapter 23, Daycare, effective May 1, 2004. This Emergency Rule shall remain in effect for a period of 120 days.

Emergency action is necessary in this matter in order to provide an increase in the maximum reimbursement rates to Class A Day Care Centers to bring the Office of Community Services reimbursement rates for day care services to the department level of the seventy-fifth percentile of the average payment rates for the state's child care providers as is recommended by the U.S. Administration for Children and Families. An increase in payment rates for providers may allow them to work toward cleaner, safer facilities for the children they serve and to hire more qualified, trained caretakers.

**Title 67  
SOCIAL SERVICES**

**Part V. Community Services  
Subpart 4. Family Services**

**Chapter 23. Daycare**

**§2301. Daycare Program**

A. The Department of Social Services, Office of Community Services will only provide day care services to children who are at risk of abuse and/or neglect, and for foster care and adoption reasons.

B. Class A Day Care Centers will be reimbursed for services at a maximum rate of \$17.50 per day for full-time and \$2.18 per hour for part-time day care services for children under the age of three years. Centers will be reimbursed for services at a maximum rate of \$16.50 per day for full-time and \$2.06 per hour for part-time day care services for children over the age of three years. When a center's rate is less than the maximum amount reimbursed by the department, the department reimbursement rate will be their usual charge for day care services.

C. The department will reimburse centers for up to five days per month per eligible child for absences when the plan is for the child to return to the center.

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 by the Department of Social Services, Office of Community Services, LR 18:868 (August 1992), LR 25:2443 (December 1999), LR 30:

Ann S. Williamson  
Secretary

0405#007

**DECLARATION OF EMERGENCY**

**Department of Social Services  
Office of Family Support**

CCAPC Provider Payment Increase  
(LAC 67:III.5102, 5107, and 5109)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to amend LAC 67:III.5102, 5107, and 5109 in the Child Care Assistance Program (CCAP) effective May 1, 2004, pursuant to the authority granted to the department by the Child Care and Development Fund (CCDF). This Rule shall remain in effect for a period of 120 days.

With the decrease in the public assistance caseload and the increase in the number of working poor, locating affordable, accessible, quality child care has become increasingly difficult and has created a crisis situation for some low income citizens of the state. In an attempt to alleviate this crisis, the department is increasing the payment rates for eligible providers based on the findings of the 2003 Child Care Market Rate Survey. The survey found Louisiana below the seventy-fifth percentile of the average payment rates for the state's child care providers. An increase in payment rates for providers may allow them to work toward cleaner, safer facilities for the children they serve and to hire more qualified, trained caretakers. Additionally, the rate increase may allow providers to expand their capacity. This would help insure that adequate child care is available for working parents or those in job training and decrease the chance that the children will be left alone or in substandard care facilities.

The agency also recognizes the need to increase access to child care for low-income families of special needs children and therefore, will make incentive payments available to child care providers who supply specialized care including specific facilities/equipment, lower staff ratio, specially trained staff, etc., to children with special needs.

The proposed amendments will not increase cost to a child care-eligible client as the agency will increase the percentage of child care costs paid for by the agency thereby absorbing the provider payment increase.

**Title 67  
SOCIAL SERVICES**

**Part III. Family Support**

**Subpart 12. Child Care Assistance  
Chapter 51. Child Care Assistance Program  
§5102. Definitions**

\* \* \*

*Special Needs Child Care* child care for a child through age 17, who because of a mental, physical, or emotional disability, requires specialized facilities, lower staff ratio, and/or specially trained staff to meet his or her developmental and physical needs. Incentive payments up to 25 percent higher than the regular rates can be allowed for a

special needs child if the provider is actually providing the specialized care.

\* \* \*

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:2826 (December 2000), LR 27:1932 (November 2001), LR 28:1490 (June 2002), LR 29:43 (January 2003), LR 29:189 (February 2003), LR 30:

**§5107. Child Care Provider**

A. - E.4. ...

F.1. Quality incentive bonuses are available to:

a. - b ...

c. Effective May 1, 2004, Child Care Assistance Program eligible providers who provide specialized care for children with special needs. This special needs care includes but is not limited to specialized facilities/equipment, lower staff ratio, and specially trained staff. The amount of these special needs care incentive payments will be in accordance with 5109.B.1.b. and 5109.B.2.b.

F.2. ...

G The Child Care Assistance Program offers Repair and Improvement Grants to either licensed or registered providers, or to those who have applied to become licensed or registered, to assist with the cost of repairs and improvements necessary to comply with DSS licensing or registration requirements and/or to improve the quality of child care services.

1. Effective September 1, 2002 the program will pay for 75 percent of the cost of such a repair or improvement, up to the following maximums.

a. For Class A centers the maximum grant amount will be equal to \$100 times the number of children listed in the licensed capacity, or \$10,000, whichever is less.

b. For Family Child Day Care Home (FCDCH) providers the maximum grant amount will be \$600.

c. These amounts may be adjusted at the discretion of the assistant secretary, based upon the availability of funds.

2. A provider can receive no more than one such grant for any state fiscal year. To apply, the provider must submit an application form indicating that the repair or improvement is needed to meet DSS licensing or registration requirements, or to improve the quality of child care services. Two written estimates of the cost of the repair or improvement must be provided and the provider must certify that the funds will be used for the requested purpose. If the provider has already paid for the repair or improvement, verification of the cost in the form of an invoice or cash register receipt must be submitted. Reimbursement can be made only for eligible expenses incurred no earlier than six months prior to the application.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L. 104-193, Act 152, 2002 First Extraordinary Session, Act 13, 2002 Reg. Session, Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:357 (February 1998), amended LR 25:2444 (December 1999), LR 26:2827 (December 2000), LR 27:1932 (November 2001), LR 28:349 (February 2002), LR 28:1491 (June 2002), LR 29:43 (January 2003), LR 29:189 (February 2003), LR 30:496 (March 2004), LR 30:

**§5109. Payment**

A. The sliding fee scale used for non-FITAP recipients is subject to adjustment based on the state median income and poverty levels, which are published annually. A non-FITAP household may pay a portion of its child care costs monthly in accordance with the sliding fee scale, and this shall be referred to as a "co-payment." The sliding fee scale is based on a percentage of the state median income.

**Sliding Fee Scale for Child Care Assistance Recipients  
75 Percent of State Median Income**

Number In Household	2	3	4	5	6	DSS %
Monthly Household Income	0 - 968	0 - 1219	0 - 1471	0 - 1723	0 - 1974	75%
	969 - 1535	1220 - 1908	1472 - 2281	1724 - 2654	1975 - 3027	55%
	1536 - 2101	1909 - 2596	2282 - 3090	2655 - 3585	3028 - 4079	35%
	Above 2101	Above 2596	Above 3090	Above 3585	Above 4079	0%

Number In Household	7	8	9	10	11	DSS %
Monthly Household Income	0 - 2226	0 - 2478	0 - 2729	0 - 2981	0 - 3233	75%
	2227 - 3199	2479 - 3372	2730 - 3543	2982 - 3716	3234 - 3888	55%
	3200 - 4172	3373 - 4265	3544 - 4357	3717 - 4450	3889 - 4543	35%
	Above 4172	Above 4265	Above 4357	Above 4450	Above 4543	0%

Number In Household	12	13	14	15	16	DSS %
Monthly Household Income	0 - 3484	0 - 3736	0 - 3988	0 - 4239	0 - 4491	75%
	3485 - 4060	3737 - 4232	3989 - 4405	4240 - 4577	4492 - 4749	55%
	4061 - 4636	4233 - 4728	4406 - 4821	4578 - 4914	4750 - 5006	35%
	Above 4636	Above 4728	Above 4821	Above 4914	Above 5006	0%



Number In Household	17	18	19	20		DSS %
Monthly Household Income	0 -4743	0 -4994	0 - 5246	0 - 5498		75%
	4744 - 4921	4995 - 5093	5247 - 5266			55%
	4922 - 5099	5094 - 5192	5267 - 5285			35%
	Above 5099	Above 5192	Above 5285			0%

NOTE: Effective May 1, 2004, the department's percentage of payments for low income child care cases has been adjusted as reflected in the above tables.

**B. Determination of Payments**

1. Payments to providers on behalf of non-FITAP recipients will be a percentage of the lesser of:

- a. ...
- b. the State Maximum Rate for authorized services effective May 1, 2004, as indicated below:

Provider Type	Regular Care	Regular Care For Infants/Toddlers (Under Age 3)	Special Needs Care Incentive	Special Needs Care Incentive For Infants/Toddlers (Under Age 3)
Class A	\$16.50	\$17.50	\$20.65	\$21.65
Class E	\$14.00	\$15.00	\$17.50	\$18.50
Class R	\$14.00	\$15.00	\$17.50	\$18.50
Class U	\$13.50	\$14.50	\$16.90	\$17.90

2. Payments to providers on behalf of FITAP recipients will be the lesser of:

- a. ...
- b. the State Maximum Rate for authorized services effective May 1, 2004, as indicated below:

Provider Type	Regular Care	Regular Care for Infants/Toddlers (under age 3)	Special Needs Care Incentive	Special Needs Care Incentive for Infants/Toddlers (under age 3)
Class A	\$16.50	\$17.50	\$20.65	\$21.65
Class E	\$14.00	\$15.00	\$17.50	\$18.50
Class R	\$14.00	\$15.00	\$17.50	\$18.50
Class U	\$13.50	\$14.50	\$16.90	\$17.90

3. The number of hours authorized for payment is based on the lesser of the following:

- a. the number of hours the child is actually in care each week; or
- b. the number of hours the head of household, the head of household's spouse, or the minor unmarried parent is working and/or attending a job training or educational program each week, plus one hour per day for travel to and from such activity; or
- c. Effective May 1, 2004, the number of hours care is actually needed and available.

C. - E. ...

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:357 (February 1998), amended LR 25:2445(December 1999), LR 26:2828 (December 2000), LR 27:1933 (November 2001), LR 28:1491 (June 2002), LR 29:1834 (September 2003), LR 30:

Ann S. Williamson  
Secretary

0405#006

**DECLARATION OF EMERGENCY**

**Department of Social Services  
Office of Family Support**

Reporting Requirements and Child Immunization  
(LAC 67:III.1257, 1998, 5103, 5104, 5107 and 5347)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to amend LAC 67:III.1257 in the Family Independence Temporary Assistance Program (FITAP), §§5103 and 5107 in the Child Care Assistance Program (CCAP) and §5347 in the Kinship Care Subsidy Program (KCSP) and to adopt §§1998 and 5104 in the Food Stamp and Child Care Assistance Programs effective May 31, 2004. This Rule shall remain in effect for a period of 120 days. This declaration is necessary to extend the original Emergency Rule of February 1, 2004, since it is effective for a maximum of 120 days and will expire before the final Rule takes effect. (The final Rule will be published in July 2004.)

Pursuant to 7 CFR Part 273, amendments are necessary to the FITAP, CCAP, KCSP and Food Stamp Programs, in

order to comply with the federal mandates regarding reporting requirements and to avoid federal penalties and sanctions that could occur when benefits or services are received inappropriately as a result of inaccurate or unreported information. The agency intends to repeal §5103.D of the Child Care Assistance Program and the information contained in this Section will be adopted as §5104, Reporting Requirements. Section 1998, Reporting Requirements, will be adopted to specify reporting requirements in the Food Stamp Program. In addition, §§1257 and 5347 are being amended to clarify reporting requirements for FITAP and KCSP. The reorganized Sections will contain information mandated by the federal regulations as well as information that aligns the reporting requirements of the FITAP, CCAP, KCSP and Food Stamp Program.

Additionally, federal regulations mandate that all children receiving child care services be immunized and that verification of such be provided. In order to comply with federal regulations and to avoid severe penalties or sanctions, the agency intends to amend §5107, Child Care Providers, to require that Family Day Care Home providers retain an immunization record signed/stamped by a physician or physician's designee on each child in care verifying the child has had or is in the process of receiving all age-appropriate immunizations as required by the Office of Public Health. §5107.B.1.d. is being amended for technical reasons only.

#### **Title 67**

#### **SOCIAL SERVICES**

#### **Part III. Family Support**

#### **Subpart 2. Family Independence Temporary Assistance Program**

#### **Chapter 12. Application, Eligibility, and Furnishing Assistance**

#### **Subchapter B. Conditions of Eligibility**

#### **§1257. Reporting Requirements**

A. Effective February 1, 2004, a FITAP household that is not included in a food stamp semi-annual reporting household shall report any change that affects eligibility or the amount of monthly benefits. Changes in income must be reported if the household's gross monthly income changes by more than \$100 in earned income or \$50 in unearned income. Changes shall be reported within 10 days of the knowledge of the change.

B. Effective February 1, 2004, a FITAP household that is included in a food stamp semi-annual reporting household is subject to the semi-annual household reporting requirements in accordance with §2013.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231 et seq., 7 CFR Part 273.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:522 (March 2002), amended LR 30:

#### **Subpart 3. Food Stamps**

#### **Chapter 19. Certification of Eligible Households**

#### **Subchapter L. Reporting Changes**

#### **§1998. Reporting Requirements**

#### **(Effective February 1, 2004)**

A. A Food Stamp household that is not included in semi-annual reporting shall report any change that affects

eligibility or the amount of monthly benefits. Changes in income must be reported if the household's gross monthly income changes by more than \$100 in earned income or \$50 in unearned income. Changes shall be reported within 10 days of the knowledge of the change.

B. A food stamp household that is included in semi-annual reporting is subject to the semi-annual household reporting requirements in accordance with §2013.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 273.12(a).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:

#### **Subpart 12. Child Care Assistance Chapter 51. Child Care Assistance Program §5103. Conditions of Eligibility**

A. - C. ...

D. Repealed. (Effective February 1, 2004)

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:356 (February 1998), amended LR 25:2444 (December 1999), LR 26:2827 (December 2000), LR 27:1932 (November 2001), LR 28:1490 (June 2002), LR 29:43 (January 2003), LR 29:1106 (July 2003), LR 29:1833 (September 2003), LR 30:496 (March 2004), LR 30:

#### **§5104. Reporting Requirements**

#### **(Effective February 1, 2004)**

A. Low Income Child Care household that is not included in a food stamp semi-annual reporting household shall report any change that affects eligibility or the amount of monthly benefits. Changes in income must be reported if the household's gross monthly income changes by more than \$100 in earned income or \$50 in unearned income. Changes shall be reported within 10 days of the knowledge of the change.

B. A Low Income Child Care household that is included in a Food Stamp semi-annual reporting household is subject to the semi-annual reporting requirements in accordance with §2013. In addition, these households must report the following changes within 10 days of the knowledge of the change:

1. a change in child care provider;
  2. termination of any TEMP's employment or training;
- or
3. a child receiving CCAP services leaves the home.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L. 104-193, 7 CFR Part 273

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR:30

#### **§5107. Child Care Providers**

A. - B. ...

1. To be eligible for participation, a Family Child Day Care Home Provider must sign a provider agreement, complete a request for registration and Form W-9, pay appropriate fees, furnish verification of Social Security number and residential address, provide proof that he/she is at least 18 years of age, and meet all registration requirements, including:

a. - c. ...

d. retain a statement of good health signed by a physician or his designee which must have been obtained within the past three years and be obtained every three years thereafter; and

e. - f. ...

g. effective February 1, 2004, retain an immunization record signed/stamped by a physician or a physician's designee on each child receiving care verifying the child has had, or is in the process of receiving all age-appropriate immunizations as required by the Office of Public Health. No Family Day Home Provider is required to comply with this provision if a child's parent or guardian submits a written statement from a physician stating that the immunization procedure is contraindicated for medical reasons, or if the parent or guardian objects to the procedure on religious grounds.

B.2 - H.2. ...

**AUTHORITY NOTE:** Promulgated in accordance with 45 CFR Parts 98 and 99, P.L. 104-193, Act 152, 2002 First Extraordinary Session, Act 13, 2002 Reg. Session.

**HISTORICAL NOTE:** Promulgated by the Department of Social Services, Office of Family Support, LR 24:357 (February 1998), amended LR 25:2444 (December 1999), LR 26:2827 (December 2000), LR 27:1932 (November 2001), LR 28:349 (February 2002), LR 28:1491 (June 2002), LR 29:43 (January 2003), LR 29:189 (February 2003), LR 30:496 (March 2004), LR 30:

**Subpart 13. Kinship Care Subsidy Program (KCSP)  
Chapter 53. Application, Eligibility and Furnishing Assistance**

**Subchapter B. Conditions of Eligibility**

**§5347. Reporting Changes**

A. Effective February 1, 2004, a KCSP household that is not included in a food stamp semi-annual reporting household shall report any change that affects eligibility. Changes in income must be reported if the household's gross monthly income changes by more than \$100 in earned income or \$50 in unearned income. Changes shall be reported within 10 days of the knowledge of the change.

B. Effective February 1, 2004, a KCSP household that is included in a food stamp semi-annual reporting household is subject to the semi-annual household reporting requirements in accordance with §2013.

**AUTHORITY NOTE:** Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231 et seq., 7 CFR Part 273.

**HISTORICAL NOTE:** Promulgated by the Department of Social Services, Office of Family Support, LR 28:2565 (December 2002), amended LR 30:

Ann Silverberg Williamson  
Secretary

0405#042

**DECLARATION OF EMERGENCY**

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

2004 Spring Shrimp Season

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act, which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all or part of inside waters and shall have the authority to open or close outside waters, the Wildlife and Fisheries Commission does hereby set the 2004 Spring Shrimp Season in Louisiana state waters to open as follows:

Shrimp Management Zone 1C that portion of Louisiana's inside waters from the Mississippi State line to the eastern shore of South Pass of the Mississippi River, to open at 6 a.m. May 24, 2004, except the open waters of Breton and Chandeleur Sounds as described in the Menhaden Rule (LAC 76:VII.307.D) which shall open at 6 a.m. May 14, 2004; and

Shrimp Management Zone 2C that portion of Louisiana's inside waters from the eastern shore of South Pass of the Mississippi River westward to the western shore of Vermilion Bay and Southwest Pass at Marsh Island, as well as that portion of the State's Outside Waters south of the Inside/Outside Shrimp Line as described in R.S. 56:495 from the Atchafalaya River Channel at Eugene Island as delineated by the River Channel Buoy Line to Freshwater Bayou Canal at longitude 92E 18' 33" W, all to open at 6 a.m. May 14, 2004; and

Shrimp Management Zone 3C that portion of Louisiana's inside waters from the western shore of Vermilion Bay and Southwest Pass at Marsh Island westward to the Texas State Line, to open at 6 a.m. May 31, 2004.

The commission also hereby grants authority to the Secretary of the Department of Wildlife and Fisheries to close any portion of the state's inside waters to protect small white shrimp if biological and technical data indicates the need to do so, or enforcement problems develop.

Bill A. Busbice, Jr.  
Chairman

0405#018

# Rules

## RULE

### Department of Economic Development Office of Business Development Business Resources Division

#### Research and Development Tax Credit (LAC 13:I:Chapter 29)

The Department of Economic Development, Office of Business Development, pursuant to the authority of R.S. 47:6015 and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., has adopted the following Rule for the Research and Development Tax Credit.

#### Title 13

#### ECONOMIC DEVELOPMENT

#### Part I. Financial Incentive Programs

#### Chapter 29. Research and Development Tax Credit

#### §2901. Purpose and Application

A. The purpose of this Chapter is to implement the Research and Development Tax Credit Program as established by R.S. 47:6015.

B. This Chapter shall be administered to achieve the following purposes:

1. encourage the development, growth, and expansion of the private sector within the state; and
2. encourage new and continuing efforts to conduct research and development activities within this state.

C. This Chapter shall apply to any person

1. claiming a credit;
2. selling or otherwise transferring a credit; or
3. purchasing or otherwise acquiring a credit under this program.

D. A person may earn a credit against income or corporation franchise tax liability for the following:

1. any person who claims for the taxable year a federal income tax credit under 26 U.S.C. §41(a) for increasing research activities may receive a credit in the amount of either;

a. eight percent of the state's apportioned share of the taxpayer's expenditures for increasing research activities; or

b. twenty-five percent of the state's apportioned share of the federal research credit claimed for research expenditures in the state if the taxpayer claims the alternative incremental tax credit under 26 U.S.C. §41; and

2. a person who receives a federal Small Business Innovation Research Grant as created by the Small Business Innovation Development Act of 1982 (P.L. 97-219), reauthorized by the Small Business Research and Development Enhancement Act (P.L. 102-564), and reauthorized again by the Small Business Reauthorization Act of 2000 (P.L. 106-554), may receive a credit in an amount equal to eight percent of the award.

B. The credit may be carried forward for up to 10 years, or under certain circumstances may be sold pursuant to the provisions of R.S. 47:6015 and this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6015.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Services, Business Resources Division, LR 30:977 (May 2004).

#### §2903. Definitions

A. Terms not otherwise defined in this Chapter shall have the same meaning given to them in R.S. 51:2352 unless the context clearly requires otherwise.

B. In this Chapter, the following terms shall have the meaning provided in this Section, unless the context clearly requires otherwise.

*Credit Certification* Ca certification by DED of the amount of the Research and Development Tax Credit earned by a person for a particular tax year.

*DEDC* Louisiana Department of Economic Development.

*Person* Any natural person or legal entity including an individual, corporation, partnership, or limited liability company.

*Qualified Research Expenses in the State* Expenses that are qualified research expenses under 26 U.S.C. §41(b) and meet the following requirements:

a. wages described in 26 U.S.C. §41(b)(2)(A)(i) shall be paid to individuals who are residents of Louisiana and perform their services in Louisiana;

b. supplies described in 26 U.S.C. §41(b)(2)(A)(ii) shall be consumed in Louisiana;

c. expenses for the right to use computers as described in 26 U.S.C. §41(b)(2)(A)(iii) shall be for the use of computers located in Louisiana; and

d. contract research expenses as described in 26 U.S.C. §41(b)(3) shall be for services performed in Louisiana.

*Research and Development Tax Credits* Credits against Louisiana income or corporation franchise taxes that are earned by a person pursuant to the provisions of the Research and Development Tax Credit Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6015.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Services, Business Resources Division, LR 30:977 (May 2004).

#### §2905. Certification of Amount of Credit

A. Prior to claiming a research and development tax credit on any tax return or selling any research and development tax credit, a person must apply for and obtain a credit certification from DED.

B. The application for a credit certification shall be submitted on a form provided by the DED and provide all information requested on the application. DED may request additional information if necessary.

C. DED shall review the application and issue a credit certification in the amount determined to be eligible and provide a copy to the Department of Revenue. The credit certification and the amount of such certification shall be considered preliminary and shall be subject in all respects to audit by the Louisiana Department of Revenue.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6015.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Services, Business Resources Division, LR 30:977 (May 2004).

#### **§2907. Sale of Research and Development Tax Credits**

A. Research and development tax credits may be transferred only by sale approved by DED. No sale or other transfer of a research and development tax credit shall be valid until the proposed sale or transfer is submitted to DED for approval and approved by DED.

B. A request for the approval of a sale or transfer shall be to the DED in writing and shall include the following information:

1. a copy of the proposed sale or transfer detailing all of its terms;
2. a reference to the original credit certification that authorized the research and development tax credit; and
3. copies of the taxpayer's last two LDOL Quarterly Report of Wages.

C. The taxpayer's business must be within one of the following clusters as described in Louisiana Vision 2020, 2003 Update:

1. advanced materials;
2. agriculture and food products;
3. entertainment;
4. environmental technologies;
5. food technologies;
6. health care;
7. information technologies;
8. life sciences (including biomedical and biotechnology);
9. micro- and nano- technologies;
10. oil, gas and energy technologies;
11. chemicals/petrochemicals;
12. shipbuilding and other durable goods manufacturing;
13. transportation and logistics;
14. tourism;
15. wood, lumber, and paper.

D. DED shall review the proposed sale and if the sale complies with the criteria established by law, DED shall issue an approval certification. DED shall maintain a record of all credits sold and provide a copy of all approved sales to the Department of Revenue.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6015.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Services, Business Resources Division, LR 30:978 (May 2004).

#### **§2909. Application Fee**

A.1. An application fee in the amount of \$200 shall be submitted with the each application.

2. All fees shall be made payable to:  
Louisiana Department of Economic Development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6015.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Services, Business Resources Division, LR 30:978 (May 2004).

#### **§2911. Recapture of Credits**

A. An application for credit certification shall constitute:

1. a consent by the taxpayer that credits granted under this Section, but later disallowed in whole or in part, may be recovered by the secretary of the Department of Revenue from the taxpayer applicant through any collection remedy authorized by the provisions of R.S. 47:6015(H); and

2. a consent by the taxpayer that the Department of Revenue may disclose to DED, any tax information of the taxpayer related to the earning of, or use of research and development tax credits by the taxpayer or any other information required by DED for the effective administration of this program, provided that such tax information, shall remain confidential in the possession of DED.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6015.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Services, Business Resources Division, LR 30:978 (May 2004).

Don J. Hutchinson  
Secretary

0405#056

#### **RULE**

#### **Department of Economic Development Office of Business Development Business Resources Division**

Technology Commercialization Credit  
(LAC 13:I.Chapter 27)

The Department of Economic Development, Office of Business Development, pursuant to the authority of R.S. 47:6015 and in accordance with the Administrative Procedure Act, R.S. 49:950, et seq., has adopted the following Rule for the technology and commercialization credit.

#### **Title 13**

#### **ECONOMIC DEVELOPMENT**

#### **Part I. Financial Incentive Programs**

#### **Chapter 27. Technology Commercialization Credit**

#### **§2701. Purpose and Application**

A. The purpose of this Chapter is to implement the Technology Commercialization Credit Program as established by R.S. 51:2351 et seq.

B. This Chapter shall be administered to achieve the following purposes:

1. to induce companies purchasing the rights to commercialize technology produced at a Louisiana university to locate and grow their businesses in Louisiana;

2. to expand the economy of the state by enlarging its base of technology and research-based businesses;

3. to enlarge the number of quality jobs available to an educated workforce to retain the presence of young people educated in Louisiana colleges and universities; and

4. to attract and retain the finest research faculty to Louisiana universities.

- C. This Chapter shall apply to any person
1. seeking to become qualified to claim a credit;
  2. claiming a credit;
  3. selling or otherwise transferring a credit; or
  4. purchasing or otherwise acquiring a credit under

this program.

D. An individual or business may earn a credit on any income or corporation franchise tax liability equal to 15 percent of the amount of money invested in commercialization costs of qualified technology. The credit may be carried forward for up to 20 years, or under certain circumstances may be sold.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2351 and 2353.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Services, Business Resources Division, LR 30:978 (May 2004).

### §2703. Definitions

A. Terms not otherwise defined in this Chapter shall have the same meaning given to them in R.S. 51:2352 unless the context clearly requires otherwise.

B. In this Chapter, the following terms shall have the meaning provided in this Section, unless the context clearly requires otherwise.

*Commercialization* Cthe development of a technology into a commercial product by going through the process of prototyping, securing funding, and other steps necessary to get the final product to the marketplace. Commercialization begins after a technology has been reduced to practice and the company is proceeding to develop a commercial market.

*Credit Certification* Ca certification by DED of the amount of the technology commercialization credit earned by a Taxpayer for a particular tax year.

*DEDC* Louisiana Department of Economic Development.

*Eligibility Certification* Ca certification by the DED that a taxpayer is eligible to earn technology commercialization credits.

*Technology Commercialization Credits* Credits against Louisiana income or corporation franchise taxes that are earned by a taxpayer pursuant to the provisions of the Technology Commercialization Credit Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2353.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Services, Business Resources Division, LR 30:979 (May 2004).

### §2705. Determination of Eligibility to Earn Technology Commercialization Credits

A. Prior to earning any credits pursuant to the Technology Commercialization Credit Program, a taxpayer must apply for and obtain an eligibility certification from DED that the taxpayer is eligible to earn such credits.

B. The application for eligibility certification must be submitted prior to the end of the taxpayer's tax year for which the taxpayer first seeks to earn a technology commercialization credit.

C. A taxpayer shall apply for an eligibility certification by submitting an application on a form specified by the DED and provide at a minimum, the following information:

1. a description of the technology to be commercialized:

2. a description of how and from whom (what university) the technology was acquired including the terms of the acquisition;

3. if the technology is not owned by a university, in what manner research was sponsored by the university or what significant development or enhancement to the technology occurred at the university;

4. a pro forma statement of the company's planned investment to commercialize the technology showing at least \$250,000 in the first taxable year and \$2,000,000 by the end of the fourth taxable year;

5. any other information requested by DED.

E. DED shall review the application and, if DED determines that the taxpayer is eligible under the provisions of the Technology Commercialization Credit Program to earn technology commercialization credits, DED shall issue an eligibility certificate. DED shall maintain a record of all eligibility certificates issued and shall provide a copy of each certificate to the Louisiana Department of Revenue.

F. An eligibility certification shall be valid for a period of four tax years of the taxpayer.

G. An eligibility certification may be renewed for an additional four tax years on the following conditions:

1. the taxpayer has complied with all requirements of the program for the initial four tax years; and

2. an application for renewal is filed with DED not sooner than the end of the fourth tax and no later than the end of the fifth tax year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2353.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Services, Business Resources Division, LR 30:979 (May 2004).

### §2707. Certification of Amount of Credit

A. Prior to claiming a technology commercialization credit on any tax return or selling any technology commercialization credit, a taxpayer must apply for and obtain a credit certification from DED. A taxpayer must have been issued an eligibility certification before a credit certification may be issued.

B. The application for a credit certification shall be submitted on a form provided by the DED. The application shall include a detailed itemization of all commercialization costs incurred during the tax year.

C. DED shall review the application and issue a credit certification in the amount determined to be eligible and provide a copy to the Department of Revenue. The credit certification and the amount of such certification shall be considered preliminary and shall be subject in all respects to audit by the Louisiana Department of Revenue.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2353.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Services, Business Resources Division, LR 30:979 (May 2004).

### §2709. Sale of Technology Commercialization Credits

A. Technology commercialization credits may be transferred only by sale approved by DED. No sale or other transfer of a technology commercialization credit shall be valid until the proposed sale or transfer is submitted to DED for approval and approved by DED.

B A request for the approval of a sale or transfer shall be to the DED in writing and shall include the following information:

1. a copy of the proposed sale or transfer detailing all of its terms;
2. a reference to the original eligibility certification and credit certification that authorized the technology commercialization credit; and
3. copies of the taxpayer's last two LDOL Quarterly Report of Wages.

C. The taxpayer's business must be within one of the following clusters as described in Louisiana Vision 2020, 2003 Update:

1. advanced materials;
2. agriculture and food products;
3. entertainment;
4. environmental technologies;
5. food technologies;
6. health care;
7. information technologies;
8. life sciences (including biomedical and biotechnology);
9. micro- and nano- technologies;
10. oil, gas and energy technologies;
11. chemicals/petrochemicals;
12. shipbuilding and other durable goods manufacturing;
13. transportation and logistics;
14. tourism;
15. wood, lumber, and paper.

D. DED shall review the proposed sale and if the sale complies with the criteria established by law, DED shall issue an approval certification. DED shall maintain a record of all credits sold and provide a copy of all approved sales to the Department of Revenue.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2353.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Services, Business Resources Division, LR 30:979 (May 2004).

#### **§2711. Application Fee**

A.1. An application fee in the amount of \$200 shall be submitted with the each application.

2. All fees shall be made payable to:  
Louisiana Department of Economic Development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2353.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Services, Business Resources Division, LR 30:980 (May 2004).

#### **§2713. Eligible Commercialization Costs**

A. Investment in machinery and equipment shall include:

1. the purchase price, including any taxes and costs of delivery and installation, and any lease payments on a capitalized lease, less any sales taxes rebated under any tax incentive program, such as the enterprise zone or quality jobs programs;
2. the machinery and equipment must remain in use at the business location during the four tax years the taxpayer is eligible to earn the credit or its expected useful life,

whichever is less. The sales price, trade in value, or other value received in the sale or disposition of the machinery or equipment shall be deducted from the commercialization costs for that year.

B. Other expenditures must be associated with obtaining the rights to use or the use of technology, and may include:

1. any transaction costs incurred in obtaining technology rights such as attorney fees for negotiation of licensing agreements, accounting, or other fees;
2. costs incurred for the use of technology such as royalties or licensing fees; and
3. costs incurred in protecting the rights to technology such as costs for filing or obtaining patents, recordation fees.

C. No expenditures for which a research and development tax credit was claimed pursuant to R.S. 47:6015 shall be eligible as a commercialization cost.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2353.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Services, Business Resources Division, LR 30:980 (May 2004).

#### **§2715. Recapture of Credits**

A. An application for eligibility certification or credit certification shall constitute:

1. a consent by the taxpayer that in the event the taxpayer must repay any technology commercialization credits or the sales price of any technology commercialization credits pursuant to the provisions of R.S. 51:2353(E)(1) or (E)(2):

a. the secretary of the Department of Revenue may recover any such amounts as authorized by R.S. 47:1561.2; and

b. such amounts will be deemed to constitute a rebate or refundable tax credit; and

2. a written agreement between the taxpayer and the secretary of the Department of Revenue for the suspension of the running of prescription for any technology commercialization credits claimed by the taxpayer or the sales proceeds of any technology commercialization credits until one year after the end of the fourth tax year of the eligibility certification;

3. a consent by the taxpayer that the Department of Revenue may disclose to DED, any tax information of the taxpayer related to the earning of, or use of technology commercialization credits by the taxpayer or any other information required by DED for the effective administration of this program, provided that such tax information, shall remain confidential in the possession of DED.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2353.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Services, Business Resources Division, LR 30:980 (May 2004).

Don J. Hutchinson  
Secretary

0405#057

## RULE

### Board of Elementary and Secondary Education

Bulletin 746C Louisiana Standards for State Certification of School PersonnelC Validity, Reinstatement, Renewal, and Extension of Certificates (LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 746C Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903.A. This policy amends the current Validity, Reinstatement, Renewal, and Extension of Certificates policy in Bulletin 746 to allow reactivation of a lapsed teaching certificate for a one-year period, contingent upon the bearer of the certificate completing six semester hours of coursework within one year of the reactivation date. This temporary reactivation recognizes the certification status the teacher achieved prior to leaving the profession. Additionally, the policy adds language to limit the amount of time for response to a declination letter issued to an applicant for a non-standard certificate.

#### **Title 28 EDUCATION**

#### **Part I. Board of Elementary and Secondary Education Chapter 9. Bulletins, Regulations, and State Plans Subchapter A. Bulletins and Regulations**

#### **§903. Teacher Certification Standards and Regulations**

##### A. Bulletin 746

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:183, 311, 399, 435, 541 (April, July, September, October, December 1975), LR 28:2505, 2508 (December 2002), LR 29:117, 119 (February 2003), LR 29:119,121 (February 2003), LR 29:121, 123 (February 2003), LR 30:981 (May 2004).

#### **Process for Renewing Lapsed Professional Certificates Type C, B, and A Certificates and Level 1, 2, and 3 Certificates**

Type C and Level 1 certificates for beginning teachers in Louisiana shall be valid for three years. Teachers who have had the required academic preparation and the necessary number of years of successful teaching experience in their

properly certified field and have successfully completed the Louisiana Teacher Assistance and Assessment program may have Type C certificates converted into Type B or Type A certificates, or may have Level 1 certificates converted into Level 2 or Level 3 certificates, with validation subject to the terms and conditions hereinafter set forth.

Type B and A certificates shall be valid for life; and Level 2 and Level 3 certificates shall be valid for five years and renewable with 150 Continuing Learning Units (CLUs) of professional development. The period of validity is subject to the provision that the holder does not allow any period of five or more consecutive calendar years of disuse to accrue and/or the certificate is not revoked by the State Board of Elementary and Secondary Education acting in accordance with law.

Type C, Type B, and Type A certificates will lapse for disuse if the holder thereof allows a period of five consecutive calendar years to pass in which he is not a regularly employed educator for at least one semester (90 consecutive days).

Level 1, 2 and Level 3 professional certificates will lapse for disuse (a) if the holder thereof allows a period of five consecutive calendar years to pass in which he is not a regularly employed educator for at least one semester [90 consecutive days], or (b) if the holder fails to complete the required number of professional development hours during his employ.

Full reinstatement of a lapsed certificate shall be made only on evidence that the holder earned six semester hours (or equivalent) of resident, extension, correspondence, or online credit in courses approved by the Division of Teacher Certification and Higher Education or a dean of a Louisiana College of Education. The six semester credit hours must be earned during the five-year period immediately preceding reinstatement.

If the holder of a lapsed certificate has not earned the required six credit hours, the lapsed certificate may be reactivated (at the level that was attained prior to disuse) for a period of one year, during which time the holder of certificate is required to complete six semester credit hours of coursework and present evidence of successful completion to the Division of Teacher Certification and Higher Education. Failure to complete the necessary coursework during the one-year reactivation period will result in a lapsed certificate that cannot be reinstated until evidence of completed coursework is provided.



Approved Courses to Reinstate Lapsed Certificates (Six semester hours of coursework required)						
Type of Approved Coursework	Early Childhood (PK, K, PK-3)	Elementary Grades (1-4, 1-5, 1-6, 1-8)	Middle Grades (4-8, 5-8)	Secondary Grades (6-12, 7-12)	Special Education (1-12)	All-Level (K-12) Areas (Art, Dance, Foreign Language, H&PE, Music)
(Diagnostic & Prescriptive Reading)	X	X	X	X	X	
Reading in the Content Area	X	X	X	X	X	
Other Content in Reading	X	X	X	X	X	X
Early Numeracy Concepts of Mathematics	X	X	X		X	
Other Content in Mathematics	X	X	X		X	
Content in English/ Language Arts	X	X	X		X	
Content in Science	X	X	X		X	
Content in Social Studies	X	X	X		X	
Content Specific to Subject Area of Certification			X	X	X	X
Classroom and/ or Behavior Management	X	X	X	X	X	X
Technology in the Classroom	X	X	X	X	X	X
Teaching in an Inclusive Setting	X	X	X	X	X	X
Vocational and Transition Services for Students					X	

- Notes:
1. Teachers with multiple certification areas may complete coursework specific to any of their certification areas.
  2. Coursework must be reflected on a transcript from a regionally accredited institution.
  3. Coursework must be gained within the five-year period immediately preceding reinstatement of the certificate.
  4. Coursework cannot be a repeat of prior coursework shown on a transcript, unless the student failed or earned a "D" in the course.

Effective July 2002; Revised December 2002

### Types of Teaching Authorizations and Certifications

Standard Teaching Authorizations Teachers holding standard teaching authorizations and certifications may meet the requirements of the NCLB mandate.		
Professional Level Certificates (Issued beginning July 1, 2002)		
<b>Level 1 Professional Certificate (Three-year term)</b>	Teachers must graduate from a State-approved teacher preparation program (traditional or alternative path), pass PRAXIS, and be recommended by a university to receive a Level 1 Professional Certificate. -or- Teacher must complete a State-approved Practitioner Teacher Program, pass PRAXIS, and be recommended by the Practitioner Teacher Program provider to receive a Level 1 Professional Certificate. -or- Teacher must meet the requirements of an out-of-state certified teacher.	A lapsed Level 1 certificate may be renewed once for an additional three years, upon recommendation of the parish superintendent (or corresponding administrative officer of a private school system) who wishes to employ such teachers, subject to the approval of Teacher Certification and Higher Education, or upon the presentation of six semester hours of resident, extension, or correspondence credit directly related to the area of certification.
<b>Level 2 Professional Certificate</b>	Teachers with a Level 1 Professional Certificate must pass the Louisiana Teacher Assistance and Assessment Program and teach for three years to receive a Level 2 Professional Certificate.	Teachers must complete 150 clock hours of professional development over a five-year time period in order to have a Level 2 Professional License renewed.
<b>Level 3 Professional Certificate</b>	Teachers with a Level 1 or Level 2 Certificate are eligible for a Level 3 Certificate if they complete a Master's Degree, teach for five years, and pass the Louisiana Teacher Assistance and Assessment Program.	Teachers must complete 150 clock hours of professional development over a five-year time period in order to have a Level 3 Professional License renewed.

<b>Standard Teaching Certificates</b> (Issued prior to July 1, 2002)			
<b>Type C Certificate</b>	Type C certificates will not be issued after July 1, 2002.		
<b>Type B Certificate</b>	Candidates currently holding Type A or Type B certificates will continue to hold these certificates, which are valid for life, provided the holder does not allow any period of five or more consecutive years of disuse to accrue and/or the certificate is not revoked by the State Board of Elementary and Secondary Education, acting in accordance with law.		
<b>Type A Certificate</b>			
<b>Out-of-State Certificate</b>			
A teacher certified in another state who meets all requirements for a Louisiana certificate, except for the PRAXIS examinations.	Individual submits application to LDE. Valid for three years and non-renewable.	Teacher must take and pass the appropriate PRAXIS examinations -or- Teacher provides evidence of at least four years of successful teaching experience in another state, completes one year of employment as a teacher in Louisiana public school systems, and secures recommendation of the local superintendent of the employing school system for continued employment	
<b>Practitioner Licenses</b>			
Teachers holding standard teaching authorizations and certifications may meet the requirements of the NCLB mandate.			
One-year license that can be held a maximum of three years, renewable annually.	The District and the alternate certification program provider must identify the individual as a practitioner teacher (PL1), a non-master's alternate certification program teacher (PL2), a master's alternate certification program teacher (PL3), or as a teacher who is not in one of the three new alternate certification programs (PL4) but qualifies for a PL.	Teacher must be admitted to and enrolled in a State-approved Practitioner Teacher Program (PL1), Non-Master's Alternate Certification Program (PL2), or Master's Degree Alternate Certification Program (PL3), which necessitates meeting all program requirements including baccalaureate degree, stipulated GPA, and passing scores on the Praxis PPST and content area exams. A teacher receiving a PL4 license is not in a new alternate certification program, has passed the Praxis content specialty exam or has 31 hours in the content area of certification, but has not yet completed all requirements for full certification.	The alternate certification teacher (PL1, PL2, and PL3) must remain enrolled in the respective program and fulfill all coursework, teaching assignments, and prescribed activities as identified by the program provider. The PL4 teacher must complete all alternate program coursework that remains, complete all Praxis requirements for the certification area, and achieve a 2.50 GPA. Program requirements must be completed within the three-year maximum that the license can be held. PL2 and PL3 teachers must demonstrate progress toward program requirements by successfully completing at least 9 semester hours each year to remain on the PL license.

<b>Non-Standard Temporary Authorizations to Teach*</b> (Teachers holding non-standard teaching authorizations and certifications <b>DO NOT</b> meet NCLB mandate requirements.)			
<b>Temporary Authority to Teach</b>  A teacher may hold a one-year Temporary Authorization to Teach for a maximum of three years while pursuing a specific certification area. He/she may not be issued another Temporary Certification at the end of the three years for the same certification area unless the Louisiana Department of Education designates the area as one that requires extensive hours for completion.	Districts may recommend that teachers be given one-year temporary authorizations to teach according to the stipulated conditions.  Districts submit the application to LDE and provide an affidavit signed by the local superintendent that "there is no regularly certified, competent, and suitable person available for that position" and that the applicant is the best qualified person for the position.	Conditions	Requirements to renew Temporary Authorization to Teach and/or Move to Another Certification Level
		a. Individual who graduates from teacher preparation program but does not pass PRAXIS	Teacher must prepare for the PRAXIS and take the necessary examinations at least twice a year.
		b. Individual who holds a minimum of a baccalaureate degree from a regionally - accredited institution and who applies for admission to a Practitioner Teacher Program or other alternate program but does not pass the PPST or the content specialty examination of the PRAXIS required for admission to the program.	Teacher must successfully complete a minimum of six credit hours per year in the subject area(s) that he/she is attempting to pass on the PRAXIS; candidate must reapply for admission to a Practitioner Teacher Program or other alternate program.
<b>Out-of-Field Authorization to Teach</b>  A teacher may hold a one-year Out-of-Field Authorization to Teach, renewable annually, for a maximum of three years. If the teacher is actively pursuing certification in the field and LDE designates the certification area as one requiring extensive hours for completion, two additional years of renewability may be granted.	District submits application to LDE; renewable annually for maximum of three years. The employing district superintendent must provide a signed statement certifying that "there is no regularly certified, competent, and suitable person available for the position" and that applicant is the best-qualified person available for the position.	c. Individual who holds a minimum of a baccalaureate degree from a regionally - accredited institution and who is hired after the start of the Practitioner Teacher Program	Teacher must apply for admission to a Practitioner Teacher Program or other alternate program and pass the appropriate PRAXIS examinations required for admission to the program.
		a. Individual holds a Louisiana Teaching Certificate, but is teaching outside of the certified area.	Teacher must obtain a prescription/outline of course work required for add-on certification in the area of the teaching assignment.  Teacher must successfully complete a minimum of six credit hours per year of courses that lead toward certification in the area in which he/she is teaching; or the secondary-certified teacher who is teaching out-of-field may opt to take and pass the required PRAXIS content specialty examination for the specific 7-12 academic certification area, if the area has been declared as a primary or secondary teaching focus area.  The district must support a teacher's efforts in this area.

<b>Temporary Employment Permit</b>	Under condition (a) the district submits application to LDE; renewable annually for a period not to exceed three total years.	a. Individual meets all certification requirements, with the exception of passing all portions of the NTE examination, but scores within ten percent of the composite score required for passage of all exams. (Formerly classified as EP)	Superintendent and president of the school board to which the individual has applied for employment must submit a signed affidavit to the LDE stipulating that there is no other applicant who has met all of the certification requirements available for employment for a specific teaching position. Such permit shall be in effect for not more than one year, but may be renewed annually, twice. One can remain on this temporary certificate for a period not to exceed three years. Such renewal of the permit shall be accomplished in the same manner as the granting of the original permit. The granting of such emergency teaching permit shall not waive the requirement that the person successfully complete the exam. While employed on an emergency teaching permit, employment period does not count toward tenure.
	Under condition (b) the individual submits application to LDE; renewable annually for a period not to exceed three total years.	b. Individual meets all certification requirements, with the exception of passing one of the components of the PRAXIS, but has an aggregate score equal to or above the total required on all tests. (Formerly classified as TEP)	Temporary Employment Permits are issued at the request of individuals, who must submit all application materials required for issuance of a regular certificate to LDE. An individual can be re-issued a permit two times only if evidence is presented that the required test has been retaken within one year from the date the permit was last issued. One can remain on this temporary certificate for a period not to exceed three years.

\*A declination letter sent to a school district must be corrected within 10 working days. If the district does not comply with the request for additional information within the 10 days, the district must remove the teacher upon the 11th working day.

<b>Process for Renewing Lapsed Professional Certificates Type C, B, and A Certificates and Level 1, 2, and 3 Certificates</b>
<p>Type C, Type B, and Type A certificates will lapse for disuse if the holder thereof allows a period of five consecutive calendar years to pass in which he is not a regularly employed educator for at least one semester (90 consecutive days).</p> <p>Level 1, 2 and Level 3 professional certificates will lapse for disuse (a) if the holder thereof allows a period of five consecutive calendar years to pass in which he is not a regularly employed educator for at least one semester [90 consecutive days], or (b) if the holder fails to complete the required number of professional development hours during his employ.</p> <p>Full reinstatement of a lapsed certificate shall be made only on evidence that the holder earned six semester hours (or equivalent) of resident, extension, correspondence, or online credit in courses approved by the Division of Teacher Certification and Higher Education or a dean of a Louisiana College of Education. The six semester credit hours must be earned during the five-year period immediately preceding reinstatement.</p> <p>If the holder of a lapsed certificate has not earned the required six credit hours, the lapsed certificate may be reactivated (at the level that was attained prior to disuse) for a period of one year, during which time the holder of certificate is required to complete six semester credit hours of coursework and present evidence of successful completion to the Division of Teacher Certification and Higher Education. Failure to complete the necessary coursework during the one-year reactivation period will result in a lapsed certificate that cannot be reinstated until evidence of completed coursework is provided.</p>

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Weegie Peabody  
Executive Director

0405#049

## RULE

### Board of Elementary and Secondary Education

Bulletin 1977C Business Education Content  
Standards Curriculum Framework for Louisiana  
(LAC 28:LXVII.Chapters 1-9)

Editor's Note: LAC 28:LXVII has been codified and is being printed in its entirety.

#### Title 28

#### EDUCATION

#### Part LXVII. Bulletin 1977C Business Education Content

#### Standards Curriculum Framework for Louisiana

#### Chapter 1. General

#### §101. Mission and Goals of Education in Louisiana

A. As a part of the scope of education in Louisiana, Business Education embraces the mission and goals of education as adopted by the Board of Elementary and Secondary Education which follow.

1. The Board of Elementary and Secondary Education pledges its commitment to the proposition that every child is valued and every child will learn.

2. In order that we may honor this commitment, the board will aggressively pursue new and different ideas, develop a strong systemic process for change, and dedicate our energies and resources to that mission.

3. The Board recognizes that education is an on-going process in which learning is the constant and time is the variable. It is for this reason that we propose and adopt the following goals which we believe will help chart the course for every child in Louisiana:

- a. focus on the early years;
- b. prepare students for the workplace;
- c. increase literacy, reduce dropouts;
- d. support teachers;
- e. support children and families;
- f. provide performance based accountability.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:985 (May 2004).

#### §103. Mission Statement of Business Education in Louisiana

A. The mission of Business Education in Louisiana is to provide students with:

1. business knowledge and workplace skills in preparation for initial employment and advancement in a career;
2. background information for further study in the field of business;
3. technology skills for personal and work-related environments;
4. leadership abilities for fulfilling career, social, and civic responsibilities; and
5. career information and development of personal qualities necessary for a successful career.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:985 (May 2004).

#### §105. NBEA National Business Education Standards

A. In 1995, the National Business Education Association published the *National Standards for Business Education:*

*What America's Students Should Know and Be Able to Do In Business.*<sup>1</sup> (<sup>1</sup>National Standards for Business Education: What America's Students Should Know and Be Able to Do In Business; National Business Education Association, Reston, Virginia; 1995.) This document provides standards for business education programs, defines the parameters of the discipline of business education, and provides a guide for curriculum writers to use in developing superior programs in business education. The standards are designed to develop students' comprehensive knowledge and competence. The NBEA recommends that students should be able to:

1. Function as economically literate citizens through the development of personal consumer economic skills, a knowledge of social and government responsibility, and an understanding of business operations;

2. Demonstrate interpersonal, teamwork, and leadership skills necessary to function in multicultural business settings;

3. Develop career awareness and related skills to enable them to make viable career choices and become employable in a variety of business careers;

4. Select and apply the tools of technology as they relate to personal and business decision making;

5. Communicate effectively as writers, listeners, and speakers in social and business settings;

6. Use accounting procedures to make decisions about planning, organizing, and allocating resources;

7. Apply the principles of law in personal and business settings;

8. Prepare to become entrepreneurs by drawing from their general understanding of all aspects of business;

9. Understand the interrelationships of different functional areas of business and the impact of one component on another;

10. Develop the ability to participate in business transactions in both the domestic and international arenas;

11. Develop the ability to market the assets each individual has whether they be in the labor market or in the consumer goods market;

12. Manage data from all of the functional areas of business needed to make wise management decisions;

13. Utilize analytical tools needed to understand and make reasoned decisions about economic issues, both personal and societal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:985 (May 2004).

#### §107. Business Education Framework Development and Structure

A. Realizing the need to incorporate national standards into Louisiana's Business Education curriculum, a team of secondary and postsecondary business educators was assembled. The team was assigned the task of creating a framework of standards and benchmarks that would be used as a guide for developing curriculum at the local level. Business and industry representatives and middle school educators reviewed the document. This curriculum framework document is the result of that process.

B. In addition to standards and benchmarks for Business Education, the framework appendix includes elements critical to the success of every vocational business curriculum: foundation skills; a model for lifelong learning;

SCANS workplace skills; school-to-work opportunities; vocational student organization information; and a list of resources. Every effort was made to provide a curriculum framework document that would be a useful tool for developing curriculum in Business Education.

C. As a result of examining the national standards and current Business Education course offerings, team members established five career majors in the Business career cluster. Developing career majors within a career cluster assists students in moving toward career goals. This framework provides *standards*--what students should know and be able to do when they complete a career major. It allows local systems to develop a unique curriculum based on available resources and the needs of the local community.

D. The five career majors for the Business career cluster are:

1. accounting;
2. administrative support;
3. business administration and management;
4. economics/finance;
5. information systems.

E. Although the five career majors represent a diverse body of knowledge and skills, there are certain concepts that should be included in each standard. These concepts are defined as *strands* and should be interwoven throughout the Business Education curriculum. The concepts identified as strands are:

1. career development;
2. communication;
3. computation;
4. international business;
5. interrelationships of business and academics;
6. technology;
7. work ethics and professionalism.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:985 (May 2004).

### **§109. Critical Thinking Skills**

A. In addition to achieving content standards, students must be information literate in order to communicate, make decisions, and solve problems. Critical thinking skills are essential to living and working in an environment where information is abundant and constantly available.

B. Thinking is a learned process and effective teachers make a conscious effort to teach critical thinking skills. Questioning and classroom activities are two ways to encourage and develop critical thinking in the classroom. The use of questions that require comprehension, application, analysis, synthesis, or evaluation of information encourage higher-order thinking skills. Cooperative/collaborative learning activities or classroom projects that require students to construct, criticize, critique, solve problems, or make decisions also enhance critical thinking abilities. Areas where critical thinking skills could be developed are indicated throughout the framework.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:986 (May 2004).

### **§111. Integration of Academics and Enhancement of the Curriculum**

A. Emphasis is placed on integrating academic and business courses through cross-referencing academic content standards and encouraging team teaching and cooperative projects. Incorporating the model for lifelong learning, emphasizing foundation skills and SCANS workplace skills, implementing school-to-work activities, and encouraging an active FBLA organization will enhance the Business Education curriculum.

B. Upon completion of a career major, students possess fundamental skills for jobs related to that career area. School districts wishing to implement a quality business education program should consider the following steps:

1. Job Analysis. Each local system should begin setting up its business program by performing a "job analysis" survey on the related occupations for each business education major. A job analysis is a challenging but critical tool in developing a successful vocational program. It primarily consists of but is not limited to the following.

a. Determine what and where the "jobs" for the career major are located. In some areas, there may not be any local jobs in the related career major area. If no jobs are available, then the career major may not need to be offered locally. The job analysis process should be repeated every two or three years to track changes in the job market and thus, changes in the curriculum.

b. If jobs are available for the related major, a survey of the skills required should be compiled. This list of skills should be developed from the prospective employers and established skill reports such as the SCANS.

2. Curriculum Development. Once the employment possibilities for a career major have been identified and the skills necessary to be employed are compiled, training can be developed. The courses listed in each career major represent excellent places to develop vocational training. If the courses do not cover the skills developed in the job analysis, local school systems are encouraged to develop new courses that will cover the necessary skills. Some type of cooperative education course or work-based learning component should be integrated into all career majors.

C. Curriculum should be reviewed and revised periodically to meet the needs of the student and the local business community. Articulation agreements with postsecondary institutions should be reviewed and pursued as courses in the curriculum are developed and refined.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:986 (May 2004).

### **§113. Intended Audience and Use of the Framework**

A. The Business Education curriculum framework document is intended for a broad audience. The framework serves as a guide for curriculum and instruction and as a general reference to the concepts and skills of Business Education in Louisiana. The intended users of the framework include:

1. business education teachers to use in planning curriculum, instruction, and assessment;

2. K-12 teachers to use in identifying ways they can incorporate Business Education concepts and skills into their curricula;

3. parents to use as a means of assessing the effectiveness of their children's business education;

4. school and district administrators and school board members to use as a vision for business education and a basis for planning resource allocations, materials purchases, local curriculum development, teachers' professional development, and facility construction;

5. policy makers and state education staff to use as a basis for developing laws, policies, professional development activities/materials, assessment strategies, and funding priorities to support local program development;

6. university faculty and administrators to use as a basis for the content and design of preservice and in-service teacher education programs and articulation agreements;

7. technical college faculty and administrators to use as a basis for articulation agreements and program development; and

8. business/industry leaders and government agency staff to use as a basis for developing effective partnerships for supporting Business Education programs and professional development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:986 (May 2004).

### Chapter 3. Standards and Benchmarks

#### §301. Introduction

A. Standards and benchmarks provide a framework for local curriculum development. A school district's physical facilities, available equipment, resources, and community and business support are only a few of the factors that make the system unique and determine the curriculum offered.

B. In using this framework to develop curriculum, a *standard* is the major outcome of a course and *benchmarks* are the goals for obtaining that outcome. Local systems will select the career majors to be offered, the courses offered in these majors, and create the objectives and activities that teachers will use to direct their instruction to reach the benchmarks for the selected courses. This procedure will allow local systems to structure curriculum to meet the needs of their students, schools, and communities while remaining consistent with the overall framework for the entire state.

C. Local systems will use the career majors as a guide to select the courses that will be offered for each major. Not all career majors or all courses listed with the major in this framework must be offered locally. Employment opportunities and postsecondary education availability in the local area should be considered as curriculum is developed.

D. To be identified as a vocational completer, a student must successfully complete four courses in the career major, two of which must be competency courses. The other two courses must be selected from the competency courses and/or related elective courses identified in the career major.

E. Business Education programs shall provide opportunities for business education students to receive instruction in one or more career majors. A career major consists of at least four of the courses recommended for the major. Two of the courses must be at the competency level. High schools with two or less full-time teachers may offer required courses on an alternating basis in order to meet the

requirements for program approval. An approved vocational program at the junior high level (grades 7-8) shall include a minimum of three classes in Business Education or Exploratory Business.

F. The first semester of Keyboarding is considered a foundation skill for each career major. Touch typing skill, keyboard layout, and business formats should be taught at the junior high (grades 6-8) level if possible, to allow time for concentration on competency courses in a career major. If students have not completed Keyboarding and Keyboarding Applications upon entering high school, these should be the first business courses taken.

G. The Business Education content standards and the five career majors are described in detail beginning on page 16. Each of the five career majors are defined by required competency courses and related elective courses, a focus statement that describes its importance and uniqueness, and examples of employment options available to the student upon the successful completion of the career major. (Page ii in the Appendix provides a matrix for easy reference to the career majors and recommended courses.)

H. Following each career major are the content standards that relate to that major. The *standards* identify what students should know and be able to do. In the column beside each standard are *benchmarks* that identify specific skills and knowledge and serve as points of reference to gauge student progress toward achievement of standards. Benchmarks set the direction of instruction. An asterisk (\*) identifies benchmarks that encourage critical thinking.

I. Cross-references to academic content standards reinforce the integration of academic and business skills. English Language Arts, Mathematics, Social Studies, and Science academic standards are cross-referenced in the third column beside each Business Education standard. The referenced academic standards are listed in full in the appendix. Codes used in the table to identify the academic standards are given below:

#### 1. Codes for Referenced Academic Standards

ELA = English Language Arts

Standard number is given, then benchmark number

Mathematics

Strand letter is given, then benchmark number

N - Number and Number Relations Strand

A - Algebra Strand

M - Measurement Strand

G - Geometry Strand

D - Data, Discrete Math, and Probability Strand

P - Patterns, Relations, and Functions Strand

Social Studies

Strand letter is given, then benchmark letter and number

G - Geography Strand

C - Civics Strand

E - Economics Strand

H - History Strand

Science

Strand letter is given, then benchmark letter and number

SI - Science As Inquiry Strand

PS - Physical Science Strand

LS - Life Science Strand

SE - Science and the Environment Strand

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:987 (May 2004).

### **§303. Business Education Content Standards**

#### **A. Business Education Content Standards**

1. The student will understand and apply basic accounting principles and procedures.
2. The student will use automated accounting procedures to apply basic accounting principles and pursue advanced accounting methods.
3. The student will research careers and apply skills needed for initial and continued employment.
4. The student will develop attitudes, procedures, and skills necessary to function effectively in a variety of electronic offices.
5. The student will use appropriate communication skills to communicate in a business environment.
6. The student will demonstrate the ability to use standard equipment found in a variety of modern offices.
7. The student will demonstrate successful job competencies as senior cooperative education students through classroom instruction and on-the-job training at approved business office sites.
8. The student will demonstrate the ability to maintain business and personal records.
9. The student will apply business law principles to personal and business settings.
10. The student will explore the role of an entrepreneur and apply the concepts of entrepreneurship.
11. The student will understand the American business system in order to function as a productive citizen, consumer, and worker.
12. The student will identify and explain the importance of business management concepts and the role of marketing in the global business environment.
13. The student will use economic concepts to understand and make reasoned decisions about economic issues.
14. The student will apply math computational and problem-solving skills in personal, business, and consumer applications.
15. The student will utilize current technology and information processing concepts for personal and business applications.
16. The student will produce business and personal presentations using multimedia technology.
17. The student will apply desktop publishing concepts and effective communication techniques to produce business and personal documents.
18. The student will apply proper keyboarding techniques to input data and produce personal and business documents.
19. The student will explore and use telecommunications systems.

20. The student will produce various business documents using word processing concepts and procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:988 (May 2004).

### **§305. Accounting**

A. Competency Courses: Accounting\*, Advanced/Computerized Accounting\*

B. Related Electives: Business Computer Applications I and II, Business Law, Business Machines, Cooperative Office Education, Computer Multimedia Presentations, Education for Careers\*, Entrepreneurship, Financial Math, Introduction to Business, Keyboarding/Keyboarding Applications, Records Management, Telecommunications

#### **C. Focus Statement**

1. Accounting emphasizes a strong foundation in basic accounting theory and procedures along with current applications of computer technology. This combination ensures that students will master basic accounting concepts and procedures as well as a general knowledge of how to use the computer to perform accounting activities.
2. Accounting instruction plays an important role in the secondary business curriculum and can make significant contributions to the education of students. Accounting is considered the "language of business"; therefore, it is a crucial component of academic backgrounds for students who will pursue entrepreneurial adventures, professional careers, or small business ownership. All students, regardless of the profession they choose, will benefit from accounting instruction in their business and personal life since it is an integral part of every business institution and organization.
3. Some examples of employment options available upon successful completion of the Accounting career major are:
  - a. high school:
    - i. bookkeeping clerk;
    - ii. payroll clerk;
    - iii. data entry clerk;
    - iv. accounting clerk;
    - v. inventory clerk;
    - vi. bank teller;
  - b. advanced training:
    - i. purchasing agent;
    - ii. income tax preparer;
    - iii. auditing assistant;
    - iv. inventory controller;
  - c. 4-year degree:
    - i. accountant;
    - ii. tax accountant;
    - iii. governmental accountant;
    - iv. cost accountant;
    - v. business consultant;
    - vi. financial adviser;
    - vii. loan officer;
    - viii. internal/external auditor;
    - ix. cpa (requires additional certification).

\*Content standard is included in this major.

**Standards and Benchmarks/Academic Cross-Reference**

<b>Standard</b>	<b>Benchmarks</b>	<b>Academic Cross-References</b>	
1. Understand and apply basic accounting principles and procedures	(Recommended Grades 10-12) a. Complete the steps of the accounting cycle and explain the purpose of each step *b. Determine the value of assets, liabilities, and owner's equity according to generally accepted accounting principles, explaining when and why they are used *c. Prepare, interpret, and analyze financial statements using manual and computerized systems for service, merchandising, and manufacturing businesses d. Recognize the basic forms of business organizations (sole proprietorship, partnership, corporation, cooperative and franchise) and the related differences in accounting procedures	ELA 1 - 1,3,4,5 3 - 1,2,3 4 - 1,2,3,4,5,6 5 - 1,2,3,4,5,6 6 - 1,2,4 Mathematics N - 1/2/3/4/5/6/7 A - 1/3/4 M - 1/2/3/4 G - 6 D - 1/2/3/4/5/6/7/8/9 P - 1/2/4/5	Social Studies C - A-6 E - A--1/2/3/4/ 5/6/7/8 B--1/2/3/4/5 C--1/2/3 H - B--11/12/13/14/ 15/16/17 C--15 Science SI - A--1/2/3/4/5/6/ B--1/3/5
2. Use automated accounting procedures to apply basic accounting principles and pursue advanced accounting methods	(Recommended Grades 11-12) a. Develop an awareness of the role the computer can play in maintaining accounting records b. Complete the various steps of the accounting cycle using accounting software *c. Use planning and control principles to evaluate the performance of an organization *d. Apply differential analysis and present value concepts to make decisions e. Understand the procedures used in the accounting systems of departmentalized, branch, and manufacturing business and not-for-profit organizations *f. Prepare, interpret, and analyze financial statements using manual and computerized procedures	ELA 1 - 1/3/4/5 3 - 1/2/3 4 - 1/2/3/4/5/6 5 - 1/2/3/4/5/6 6 - 1/2/4 Mathematics N - 1/2/3/4/5/6/7 A - 1/3/4 M - 1/2/3/4 G - 6 D - 1/2/3/4/5/6/7/8/9 P - 1/2/4/5	Social Studies G - D-4 C - A-6 C--2/3 E - A--1/2/3/4/ 5/6/7/8 B--1/2/3/4/5 C--1/2/3 H - B--11/12/13/14/ 15/16/17 C--15 Science SI - A--1/2/3/4/5 B--1/3/5
3. Research careers and apply skills needed for initial and continued employment	(Recommended Grades 6-8) a. Identify individual assets, interests, aptitudes, talents, and occupational abilities b. Use available tools, including Internet technology, to research local, national, and global employment opportunities and qualifications (Recommended Grades 9-12) *c. Select a career pathway and complete a career plan d. Begin a personal portfolio for employment purposes e. Identify the steps to conduct a job search f. Define and demonstrate the job application process g. Identify and apply workplace skills (SCANS) to maintain successful employment *h. Evaluate various benefit packages i. Identify and define employee rights and responsibilities and review legal aspects of employment j. Relate lifelong learning to employment k. Define work ethics and professionalism	ELA 1 - 1/3/4/5 2 - 1/2/3/4/5 3 - 1/2/3 4 - 1/2/3/4/5/6 5 - 1/2/3/4/5/6 7 - 1/2/4 Mathematics N - 1/2/3/4/5/6/7 M - 1/2/3/4	Social Studies C - D--1/2/3/4 E - A--3 Science SI - A--1/2/3/4/5/6 PS - H--2/3 LS - F--3 G--1 SE - D--9

\*Identifies benchmarks that encourage critical thinking

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 30:988 (May 2004).

**§307. Administrative Support**

**A. Competency Courses:** Administrative Support Occupations\*, Business Computer Applications I and II, Business English\*, Business Machines\*, Cooperative Office Education\*, Desktop Publishing, Keyboarding/Keyboarding Applications, Records Management\*, Telecommunications, Word Processing

**B. Related Electives:** Accounting, Computer Multimedia Presentations, Education for Careers, Financial Math, Introduction to Business, Introduction to Management

**C. Focus Statement**

1. Millions of people have entered the workforce using support-staff skills learned in business education classrooms. Innovations in technology cause changes in our work force daily. Therefore, administrative support personnel will need to develop competencies in a variety of skills that prepare them to become a member of a workforce

that is critical to maintaining and expanding the continued advancements in business. Support staff individuals will be able to make decisions, interact positively, and function in an international environment.

2. Administrative Support is the integration of business and communication concepts, knowledge, skills, and attitudes necessary to develop an awareness of interrelationships of all areas of business. Administrative Support is a capstone area that addresses the upper level needs of the Business curriculum.

3. Some examples of employment options available upon successful completion of the Administrative Support career major are:

- a. high school:
  - i. receptionist;
  - ii. data entry clerk;
  - iii. hotel clerk;
  - iv. airline reservationist;
  - v. travel clerk;
  - vi. dispatcher;
  - vii. postal clerk;



- viii. billing clerk;
- ix. medical transcriptionist;
- b. advanced training:
  - i. general office clerk;
  - ii. information clerk;
  - iii. record clerk;
  - iv. accounts receivable clerk;
  - v. court reporter;
  - vi. teacher's aide;
  - vii. medical clerk;
  - viii. paralegal;
  - ix. secretary;

- c. 4-year degree:
    - i. adjuster;
    - ii. clerical supervisor;
    - iii. systems analyst;
    - iv. information specialist;
    - v. executive secretary;
    - vi. administrative assistant;
    - vii. legal/medical secretary;
    - viii. records manager;
    - ix. word processor.
- \*Content standard is included in this major.

### Standards and Benchmarks/Academic Cross-Reference

Standard	Benchmarks	Academic Cross-References	
4. Develop attitudes, procedures, and skills necessary to function effectively in a variety of electronic offices	(Recommended Grades 10-12) a. Select and utilize equipment and technology appropriate for successfully completing various tasks *b. Compose and produce a variety of business documents using correct grammar, punctuation, and format with current and emerging technology c. Demonstrate ability to use oral and interpersonal communication skills effectively *d. Use appropriate resources as needed for decision making and problem solving e. Demonstrate knowledge of records management and application of various manual and automated data storage and retrieval systems f. Use regular and electronic mail services appropriately and economically g. Demonstrate appropriate personal qualities and work ethics h. Demonstrate ability to use appropriate office procedures i. Identify procedures involved in distributing information and products j. Apply principles of effective human relations	ELA 1 - 1/3/4/5 2 - 1/2/3/4/5 3 - 1/2/3 4 - 1/2/3/4/5/6 5 - 1/2/3/4/5/6 7 - 1/2/4 Mathematics N - 1/3/4/5/7 A - 3/4 M - 1/3/4 G - 6 D - 1/3/5/7 P - 1/2/4/5	Social Studies G - B--1/2/3/4 C--2/3/4 D--1/2/3/4/5 C - A--5/6 B--4/5/6 C--1/2/3 D--1/2/3/4 E - B--1/2/3 C--1/2 H - C--15 Science SI - A--3 B--3/5 PS - H--2/3 LS - F--3 G--1 SE - A--2/6/7/9/11 B--1/2/3/4/ 5/6/7 C--1/2/3/4/ 5/6/7/8 D--1/2/3/4/5/ 6/7/8/9
5. Use appropriate communication skills to communicate in a business environment	(Recommended Grades 11-12) a. Improve listening, comprehension, vocabulary, reading, and analytical skills b. Apply standard rules of grammar and usage c. Improve mechanics of writing to include: capitalization, number usage, punctuation, spelling, and proofreading *d. Prepare and compose business communications such as: letters, memos, reports, and e-mail *e. Use the principles of communication psychology in oral and written communiques	ELA 1 - 1/3/4/5 2 - 1/2/3/4/5 3 - 1/2/3 4 - 1/2/3/4/5/6 5 - 1/2/3/4/5/6 7 - 1/2/4 Mathematics N - 1/3/4/5/7 A - 3/4 M - 1/3/4 G - 6 D - 1/3/5/7 P - 1/2/4/5	Social Studies G - B--1/2/3/4 C--2/3/4 D--1/2/3/4/5 C - A--5/6 B--4/5/6 C--1/2/3 D--1/2/3/4 E - B--1/2/3 C--1/2 H - C--15 Science SI - A--3 B--3/5 PS - H--2/3 LS - F--3 G--1 SE - A--2/6/7/9/11 B--1/2/3/4/ 5/6/7 C--1/2/3/4/ 5/6/7/8 D--1/2/3/4/5/
6. Demonstrate the ability to use standard equipment found in a variety of modern offices	(Recommended Grades 9-12) a. Demonstrate ability to effectively utilize office equipment such as typewriters, computers, fax machines, postage machines, telephone systems, copying and reproducing machines, calculators, and transcription machines *b. Select and utilize equipment in decision making and problem solving		

7. Demonstrate successful job competencies as senior cooperative education students through classroom instruction and on-the-job training at approved business office sites	(Recommended Grade 12) a. Demonstrate effective interpersonal skills b. Demonstrate responsible work ethics and business etiquette *c. Apply skills and techniques to complete administrative support responsibilities d. Develop an understanding of records management e. Improve knowledge and skills in word and information processing f. Apply positive attitudes and communication skills g. Demonstrate proficiency in communicating on a professional level		
8. Demonstrate the ability to maintain business and personal records	(Recommended Grades 9-12) a. Maintain personal records for financial planning, banking, and taxes b. Maintain business records for cash, merchandising, payroll, and taxes c. Demonstrate data management procedures using manual or electronic methods d. Identify accounting fundamentals e. Select and apply appropriate filing procedures including alphabetic, numeric, and subject filing systems	ELA 1 - 1/3/4/5 2 - 1/2/3/4/5 3 - 1/2/3 4 - 1/2/3/4/5/6 5 - 1/2/3/4/5/6 7 - 1/2/4 Mathematics N - 1/3/4/5/7 A - 3/4 M - 1/3/4 G - 6 D - 1/3/5/7 P - 1/2/4/5	Social Studies G - B--1/2/3/4 C--2/3/4 D--1/2/3/4/5 C - A--5/6 B--4/5/6 C--1/2/3 D--1/2/3/4 E - B--1/2/3 C--1/2 H - C--15 Science SI - A--3 B--3/5 PS - H--2/3 LS - F--3 G--1 SE - A--2/6/7/9/11 B--1/2/3/4/ 5/6/7 C--1/2/3/4/ 5/6/7/8 D--1/2/3/4/5/

\*Identifies benchmarks that encourage critical thinking

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:989 (May 2004).

**§309. Business Administration and Management**

A. Competency Courses: Accounting, Business Computer Applications I and II, Business Law\*, Entrepreneurship\*, Introduction to Business\*, Introduction to Management\*, Telecommunications

B. Related Electives: Advanced/Computerized Accounting, Business English, Business Machines, Cooperative Office Education, Computer Multimedia Presentations, Desktop Publishing, Economics, Education for Careers, Financial Math, Keyboarding/Keyboarding Applications, Word Processing

C. Focus Statement

1. The study of business administration and management emphasizes analyzing, synthesizing, and evaluating data from the other functional areas of business in addition to focusing on the time and talents of others. It also includes legal issues involving business transactions and the creativeness and ingenuity of the entrepreneur.

2. This career major will typically require additional education after high school. Some examples of employment options available upon successful completion of the Business Administration and Management career major are:

- a. high school:
  - i. sales clerk;
  - ii. bill collector;
  - iii. fashion model;
  - iv. product demonstrator;
  - v. record clerk;
  - vi. real estate clerk;
- b. advanced training:
  - i. credit card marketer;
  - ii. claims adjuster;
  - iii. manufacturer's representative;
  - iv. sales manager;
  - v. travel agent;
  - vi. department manager;
  - vii. sales manager;
  - viii. clerical supervisor;
  - ix. bank officer;
- c. 4-year degree:
  - i. management consultant;
  - ii. market development specialist;
  - iii. buyer;
  - iv. administrative services;
  - v. manager;
  - vi. human resources coordinator;
  - vii. recruiter.

\*Content standard is included in this major.

### Standards and Benchmarks/Academic Cross-Reference

Standard	Benchmarks	Academic Cross-References	
<p>9. Apply business law principles to personal and business settings</p>	<p>(Recommended Grades 10-12)</p> <p>*a. Analyze relationships between ethics and the law and describe the American legal system, structure of the courts, differences between criminal and civil law, and the Louisiana court system</p> <p>b. Compare and contrast relationships between contract law and law of sales</p> <p>c. Discuss the basic rights and responsibilities of consumers</p> <p>*d. Analyze the nature of the agency relationship and the nature of the employer-employee relationship</p> <p>e. Describe laws that apply to marriage, divorce, child custody, wills, living wills, and adoptions</p> <p>f. Explain how to form, operate, and dissolve sole proprietorships, partnerships, corporations, cooperatives, and franchises</p> <p>g. Identify laws that apply to personal property and real property</p> <p>h. Explain laws that apply to property and casualty insurance, automobile insurance, personal insurance, and social insurance</p> <p>*i. Interpret property law, contract law, criminal law, civil law, and international laws as they apply to situations in which computer technology is a factor</p>	<p>ELA</p> <p>1 - 1/3/4/5</p> <p>2 - 1/2/3/4/5</p> <p>3 - 1/2/3/4/5</p> <p>4 - 1/2/3/4/5/6</p> <p>5 - 1/2/3/4/5/6</p> <p>7 - 1/2/4</p> <p>Mathematics</p> <p>N - 1/2/3/4/5</p> <p>M - 4</p> <p>G - 6</p> <p>D - 7/8/9</p>	<p>Social Studies</p> <p>G - B--1/2/3/4</p> <p>C--2/3/4</p> <p>D--1/2/3/4/5</p> <p>C - A--1/2/3/4/5/6</p> <p>B--4/5/6</p> <p>C--1/2/3</p> <p>D--1/2/3/4</p> <p>E - A-8</p> <p>B--2</p> <p>H - A--4</p> <p>B-16</p> <p>C--15</p> <p>Science</p> <p>SI - A--1/2/3/4/5/6</p> <p>B--3/5</p> <p>PS - H--2/3</p> <p>LS - F--3</p> <p>G--1</p> <p>SE - A--2/6/7/9/11</p> <p>B--1/2/3/4/5/6/7/8/9</p>
<p>10. Explore the role of an entrepreneur and apply the concepts of entrepreneurship</p>	<p>(Recommended Grades 9-12)</p> <p>a. Identify personal characteristics of an entrepreneur and determine the degree to which one possesses them</p> <p>b. Identify business conditions necessary for becoming an entrepreneur</p> <p>c. Demonstrate the concepts of business ideas and types of ownership</p> <p>*d. Formulate a marketing strategy for a business startup</p> <p>e. Describe how special issues affect the entrepreneur</p> <p>f. Demonstrate an understanding of economic principles</p> <p>*g. Research and incorporate components of productivity</p> <p>h. Explore options for the organization and operation of a business</p> <p>*i. Write a business plan</p>	<p>ELA</p> <p>1 - 1/3/4/5</p> <p>2 - 1/2/3/4/5</p> <p>3 - 1/2/3</p> <p>4 - 1/2/3/4/5/6</p> <p>5 - 1/2/3/4/5/6</p> <p>7 - 1/2/4</p> <p>Mathematics</p> <p>N - 1/2/3/4/5/6/7</p> <p>A - 1</p> <p>M - 1/3/4</p> <p>G - 6</p> <p>D - 1/2/3/4/5/6/7/8/9</p> <p>P - 1/2/4/5</p>	<p>Social Studies</p> <p>G - B--1/2/3/4</p> <p>C--2/3/4</p> <p>D--1/2/3/4/5</p> <p>C - A--1/2/3/4/5/6</p> <p>B--4/5/6</p> <p>C--1/2/3</p> <p>D--1/2/3/4</p> <p>E - A--1/2/3/4/5/6/7/8</p> <p>B--1/2/3/4/5</p> <p>C--1/2/3</p> <p>H - A--4</p> <p>B--14/15/16/17</p> <p>C--15</p> <p>Science</p> <p>SI - A--1/2/3/4/5/6</p> <p>B--3/5</p> <p>PS - H--2/3</p> <p>LS - F--3</p> <p>G--1</p> <p>SE - A--2/6/7/9/11</p> <p>B--1/2/3/4/5/6/7/8/9</p>

<p>11. Understand the American business system in order to function as a productive citizen, consumer, and worker</p>	<p>(Recommended Grades 9-12)</p> <p>a. Explore and describe basic economic concepts and their applications</p> <p>b. Describe the types of businesses and the features of the forms of ownership</p> <p>c. Explore the impact of international business on the domestic and global economy</p> <p>d. Identify the role and impact of government, the legal system, and labor on business</p> <p>*e. Analyze business career opportunities and formulate a career plan</p> <p>f. Identify consumer rights and responsibilities of consumer credit</p> <p>*g. Investigate current and emerging technology and explain its impact on business</p> <p>*h. Describe financial institutions and interpret banking services</p> <p>*i. Investigate savings and investments and interpret their impact on business and personal applications</p> <p>j. Discuss protection from different types of economic loss</p> <p>*k. Explain and apply the concepts of financial management to personal and business situations</p>	<p>ELA</p> <p>1 - 1/3/4/5</p> <p>2 - 1/2/3/4/5</p> <p>3 - 1/2/3</p> <p>4 - 1/2/3/4/5/6</p> <p>5 - 1/2/3/4/5/6</p> <p>7 - 1/2/4</p> <p>Mathematics</p> <p>N - 1/2/3/4/5/6/7</p> <p>A - 1/3/4</p> <p>M - 1/3/4</p> <p>G - 6</p> <p>D -</p> <p>1/2/3/4/5/6/7/8/9</p> <p>P - 1/2/3/4/5</p>	<p>Social Studies</p> <p>G - B--1/2/3/4</p> <p>C--2/3/4</p> <p>D--1/2/3/4/5</p> <p>C - A--1/2/3/4/5/6</p> <p>B--4/5/6</p> <p>C--1/2/3</p> <p>D--1/2/3/4</p> <p>E - A--1/2/3/4/5/6/7/8</p> <p>B--1/2/3/4/5</p> <p>C--1/2/3</p> <p>H - A--4</p> <p>B--11/14/15/16/17</p> <p>C--15</p> <p>Science</p> <p>SI - A--1/3/5/6</p> <p>B--3/5</p> <p>PS - H--2/3</p> <p>LS - F--3</p> <p>G--1</p> <p>SE - A--2/6/7/9/11</p> <p>B--1/2/3/4/5/6/7</p> <p>C--1/2/3/4/5/6/7/8</p> <p>D--1/2/3/4/5/6/7/8/9</p>
<p>12. Identify and explain the importance of business management concepts and the role of marketing in the global business environment</p>	<p>(Recommended Grades 10-12)</p> <p>a. Illustrate how the functions of management are implemented and explain why they are important</p> <p>*b. Identify the roles of marketing and analyze the impact of marketing on the individual, business, and society</p> <p>*c. Analyze financial data influenced by internal and external factors in order to make long-term and short-term management decisions</p> <p>d. Define factors that influence marketing decisions</p> <p>e. Describe the activities of human resource managers and their importance to the successful operation of the organization</p> <p>f. Identify various organizational structures and discuss the advantages and disadvantages of each</p> <p>g. Describe how strategies involving product, price, place, promotion, research, and forecasting fit into a marketing plan</p> <p>h. Define, develop, and apply a code of ethics to various issues confronted by business</p> <p>*i. Identify, describe, and analyze the impact and relationship of government regulations, international business, and community involvement to business decisions</p> <p>j. Describe the role of organized labor and its influences on government and business</p> <p>*k. Apply generally accepted operations management principles and procedures to design an operations plan</p> <p>l. Explore and describe basic economic concepts and their applications</p> <p>m. Describe financial institutions and banking services</p>	<p>ELA</p> <p>1 - 1/3/4/5</p> <p>2 - 1/2/3/4/5</p> <p>3 - 1/2/3</p> <p>4 - 1/2/3/4/5/6</p> <p>5 - 1/2/3/4/5/6</p> <p>7 - 1/2/4</p> <p>Mathematics</p> <p>N - 1/2/3/4/5/6/7</p> <p>A - 1/3/4</p> <p>M - 4</p> <p>G - 6</p> <p>D -</p> <p>1/2/3/4/5/6/7/8/9</p> <p>P - 1/2/3/4/5</p>	<p>Social Studies</p> <p>G - B--1/2/3/4</p> <p>C--2/3/4</p> <p>D--1/2/3/4/5</p> <p>C - A--1/2/3/4/5/6</p> <p>B--4/5/6</p> <p>C--1/2/3</p> <p>D--1/2/3/4</p> <p>E - A--1/2/3/4/5/6/7/8</p> <p>B--1/2/3/4/5</p> <p>C--1/2/3</p> <p>H - A--4</p> <p>B--11/12/13/14/15/16/17</p> <p>C--13/14/15</p> <p>Science</p> <p>SI - A--1/2/3/4/5/6</p> <p>B--3/4/5</p> <p>PS - H--2/3</p> <p>LS - F--3</p> <p>G--1</p> <p>SE - A--2/6/7/9/11</p> <p>B--1/2/3/4/5/6/7</p> <p>C--1/2/3/4/5/6/7/8</p> <p>D--1/2/3/4/5/6/7/8/9</p>

\*Identifies benchmarks that encourage critical thinking

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:991 (May 2004).

**§311. Economics/Finance**

A. Competency Courses: Accounting, Business Computer Applications I and II, Economics\*, Financial Math\*, Telecommunications

B. Related Electives: Business English, Business Law, Cooperative Office Education, Computer Multimedia Presentations, Education for Careers, Entrepreneurship, Introduction to Business, Introduction to Management,

Keyboarding/Keyboarding Applications, Records Management

C. Focus Statement

1. The American economy is based on a private enterprise system in which the sum total of the millions of individual choices made by consumers, workers, and citizens affect the decisions made by business owners and government officials. The preservation and effectiveness of such a system depends on the ability of individuals to make wise economic decisions related to their personal financial affairs, the successful operation of organizations, and the global economy. In order to make these informed decisions,

individuals must clearly understand how the system operates while comprehending their role in the system.

2. Math computational and problem-solving skills are basic to the understanding of economics and finance as well as records management skills to document both personal and business financial activities.

3. This career major will typically require additional education after high school. Some examples of employment options available upon successful completion of the Economics/Finance career major are:

- a. high school:
  - i. bank teller;
  - ii. cashier;
  - iii. travel agent;
  - iv. rental clerk;
  - v. insurance processing clerk;
  - vi. adjustment clerk;
  - vii. account collector;
  - viii. credit clerk;
  - ix. brokerage clerk;

- x. payroll clerk;
- b. advanced training:
  - i. real estate agent;
  - ii. credit card marketer;
  - iii. financial aid officer;
  - iv. appraiser;
  - v. adjuster;
  - vi. credit analyst;
- c. 4-year degree:
  - i. financial consultant;
  - ii. insurance agent;
  - iii. retirement counselor;
  - iv. certified financial planner;
  - v. budget analyst;
  - vi. cost estimator;
  - vii. portfolio manager;
  - viii. stock broker;
  - ix. economist.

\*Content standard is included in this major.

### Standards and Benchmarks/Academic Cross-Reference

Standard	Benchmarks	Academic Cross-References	
13. Use economic concepts to understand and make reasoned decisions about economic issues	(Recommended Grades 9-12) a. Identify opportunity costs and trade-offs involved in making choices about how to use scarce economic resources *b. Analyze the use of the decision-making process in the individual's role as a citizen, worker, and consumer c. Define the components of productivity and discuss its importance in an economic system d. Discuss why societies develop economic systems, identify the basic features of different economic systems, and discuss the major features of the U.S. economy e. Explain the role of core economic institutions and incentives in the U.S. economy *f. Explain the role of exchange and money in global economic systems and describe the effect of interdependence on economic activity g. Describe the role of markets and prices in the U.S. economy *h. Analyze the role of the law of supply and demand in the U.S. economy i. Describe different types of competitive structures and illustrate the role of competitive markets in the U.S. and other economies j. Explain how the U.S. economy functions as a whole and describe macro-economic measures of economic activity k. Discuss the role of government and the rights and responsibilities of citizens in the U.S. economy l. Examine the importance of economic relationships among nations m. Discuss the role of international trade and investment and international monetary relations in the global economy *n. Explain the role of exchange and money in a local, regional, national, and global economic system and describe the effect of interdependence on economic activity	ELA 1 - 4 2 - 2 4 - 5/6 5 - 2/3/6 7 - 1/4 Mathematics D - 1/2/3/7/8 P - 4/5	Social Studies G - B--1/2/3/4 C--2/3/4 D--1/2/3/4/5 C - A--1/2/3/4/5/6 B--4/5/6 C--1/2/3 D--1/2/3/4 E - A-- 1/2/3/4/5/6/7/8 B--1/2/3/4/5 C--1/2/3 H - B--17/18/19 C--17/18 Science LS - F--3 G--1 SE - A--11 B--1/2/3/4/5/6/7 C--7/8 D--5/8/9
14. Apply math computational and problem-solving skills in personal, business, and consumer applications	(Recommended Grades 9-12) a. Demonstrate competency in fundamental calculations using whole numbers, fractions, decimals, and percents *b. Apply fundamental knowledge to assorted business and personal financial situations c. Use manual and electronic methods to perform calculations d. Apply mathematical concepts to business and personal financial situations such as payroll, budget, and income tax e. Compute problems involving metric measurements *f. Solve problems presented in narrative and unarranged form	ELA 1 - 1/4/5 3 - 1 4 - 2/5/6 5 - 2/6 7 - 1/2/4 Mathematics N - 1/2/3/4/5/6/7 A - 1/3 M - 1/3/4 G - 6 D - 1/3/5/6/7/8/9 P - 1/5	Social Studies E - A--1 B--1/2 C--1 Science PS - H--3 LS - F--3 G--1 SE - B--5

\*Identifies benchmarks that encourage critical thinking

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:993 (May 2004).

**§313. Information Systems**

A. Competency Courses: Business Computer Applications I and II\*, Computer Multimedia Presentations\*, Desktop Publishing\*, Keyboarding /Keyboarding Applications\*, Telecommunications\*, Word Processing\*

B. Related Electives: Accounting, Administrative Support Occupations, Business English, Business Law, Business Machines, Cooperative Office Education, Education for Careers, Financial Math, Introduction to Business

C. Focus Statement

1. Due to the increased dependence upon computer technology, it is important that students apply technological concepts as well as mastery of hardware and software skills and knowledge. It is important that students understand electronic and manual information systems. Students must be prepared for a changing work environment which emphasizes both technology skills and a human perspective.

2. Ideally, the first semester of Keyboarding (1/2 unit) should be taught at the junior high (grades 6-8) level. At *any level* introduction to the keyboard layout and basic touch typing techniques should be taught before students are allowed to use computers in the classroom. If students have not had keyboarding instruction upon entering high school, Keyboarding and Keyboarding Applications should be the

first business subjects taken as they are basic foundation courses for all career majors.

3. Some examples of employment options available upon successful completion of the Information Systems career major are:

- a. high school:
  - i. data entry operator;
  - ii. receptionist/secretary;
  - iii. clerk;
  - iv. word processor;
  - v. typist;
  - vi. telephone operator;
  - vii. library technician;
- b. advanced training:
  - i. executive secretary;
  - ii. stenographer;
  - iii. paralegal;
  - iv. medical transcriptionist;
  - v. computer technician;
  - vi. web master;
- c. 4-year degree:
  - i. office manager;
  - ii. clerical supervisor;
  - iii. business teacher;
  - iv. manager;
  - v. computer scientist;
  - vi. systems analyst;
  - vii. computer engineer;
  - viii. network administrator;
  - ix. web master.

\*Content standard is included in this major.

**Standards and Benchmarks/Academic Cross-Reference**

Standard	Benchmarks	Academic Cross-References	
15. Utilize current technology and information processing concepts for personal and business applications	(Recommended Grades 10-12) a. Describe current and emerging computer architecture and its impact on society *b. Identify, select, evaluate, use, install, upgrade, and customize application software *c. Identify and configure hardware systems d. Develop a working knowledge of various types of operating systems and working environments e. Produce documents using a variety of application software including current word processing, database, spreadsheet, desktop publishing, and presentation graphics programs *f. Select appropriate technology to address business and personal needs g. Examine and use communication software including Internet technology for personal and business tasks h. Identify key ethical and security issues relating to information systems	ELA 1 - 1/3/4/5 2 - 1/2/3/4/5 3 - 1/2/3 4 - 1/2/3/4/5/6 5 - 1/2/3/4/5/6 7 - 1/2/4 Mathematics N - 1/2/3/4/5/6/7 A - 3 M - 1/2/3/4 D - 1/2/3/4/5/6/7/8 P - 2/3/4	Social Studies H - B--13/14 C--1415 Science SI - A--1/2 B--1/3/5 PS - H--2/3
16. Produce business and personal presentations using multimedia technology	(Recommended Grades 11-12) *a. Analyze the technology available for all types of presentation use b. Explore the types and role of presentations in business and personal settings c. Demonstrate proficiency in oral and visual communication skills *d. Identify and apply design concepts for presentations *e. Investigate and apply components of effective web site design f. Integrate presentations with clip art, graphics, pictures, sound, and video g. Research the impact of emerging technology on future presentations	ELA 1 - 1/3/4/5 2 - 1/2/3/4/5 3 -1/2/3 4 -1/2/3/4/5/6 5 -1/2/3/4/5/6 6 - 1/2/4 Mathematics N - 1/2/3/4/5/6/7 A - 3 M - 1/2/3/4 D - 1/2/3/4/5/6/7/8 P -2/3/4	Social Studies H - B--13/14 C--14/15 Science SI - A--1/3 B--1/3/5 PS - H--2/3

17. Apply desktop publishing concepts and effective communication techniques to produce business and personal documents	(Recommended Grades 10-12) a. Apply concepts of layout and design *b. Determine if desktop publishing is appropriate for a task *c. Identify, compare, and use various desktop publishing technology d. Use effective communication techniques when producing desktop published documents	ELA 1 - 1/3/4/5 2 - 1/2/3/4/5 3 - 1/2/3 4 - 1/2/3/4/5/6 5 - 1/2/3/4/5/6 7 - 1/2/4 Mathematics N - 1/2/3/4/5/6/7 A - 3 M - 1/2/3/4 D - 1/2/3/4/5/6/7/8 P 2/3/4	Social Studies G - C--3 D--4 C - A--4 C--1 D--4 E - A--1/3 H - A--4 B--16 C--15 Science SI - A--1/3 B--1/3/5 PS - H--2/3
18. Apply proper keyboarding techniques to input data and produce personal and business documents.	(Recommended Grades 6-12) a. Develop touch keyboarding skills at acceptable speed and accuracy levels b. Identify, compare, and explain features of various keyboards *c. Develop keyboarding skills to input and manipulate text and numerical data to produce usable documents	ELA 1 - 1/3/4/5 2 - 1/2/3/4/5 3 - 2/3 4 - 1/2/3/4/5/6 5 - 1/2/3/4/5/6 7 - 1/2/4 Mathematics N - 1/2/3/4/5/6/7 A - 3 M - 1/3/4 G - 6 D - 1/7/8/9 P - 2/4	Social Studies G - C--3 D--4 C - A--4 C--1 D--4 E - A--1/3 H - A--4 B--16 C--15 Science SI - A--1/3 B--1/3/5 PS - H--2/3
19. Explore and use telecommunications systems	(Recommended Grades 9-12) a. Investigate ethical and legal standards for networking and telecommunications *b. Assess the development and impact of telecommunications c. Define and use telecommunications and networking vocabulary d. Explain the history, structure, and relevance of the Internet e. Access, navigate, and use on-line services such as e-mail, mailing lists, and newsgroups f. Conduct research on the Internet g. Discuss legal issues associated with locating and retrieving information from the Internet *h. Plan a web site and create web pages using hypertext markup language *i. Research the pros and cons of the various network systems used in current computer systems	ELA 1 - 1/3/4/5 2 - 1/2/3/4/5 3 - 2/3 4 - 1/2/3/4/5/6 5 - 1/2/3/4/5/6 7 - 1/2/4 Mathematics N - 1/2/3/4/5/6/7 A - 3 M - 1/3/4 G - 6 D - 1/7/8/9 P - 2/4	Social Studies G - C--3 D--4 C - A--4 C--1 D--4 E - A--1/3 H - A--4 B--16 C--15 Science SI - A--1/3 B--1/3/5 PS - H--2/3
20. Produce various business documents using word processing concepts and procedures	(Recommended Grades 10-12) a. Use appropriate format to produce mailable documents b. Produce documents unique to various career fields *c. Create, compose, edit, store, retrieve, and print documents *d. Select appropriate technology for a particular task e. Exhibit personal qualities of neatness, promptness, dependability, accuracy, and proper judgment in completing various tasks *f. Solve problems in document processing g. Examine and use desktop publishing, presentation graphics, and multimedia software h. Identify key ethical and security issues relating to information systems *i. Identify and configure hardware peripherals	ELA 1 - 1/3/4/5 2 - 1/2/3/4/5 3 - 1/2/3 4 - 1/2/3/4/5/6 5 - 1/2/3/4/5/6 7 - 1/2/4 Mathematics N - 1/2/3/4/5/6/7 A - 3 M - 1/2/3/4 D - 1/2/3/4/5/6/7/8 P - 2/3/4	Social Studies G - C--3 D--4 C - A--4 C--1 D--4 E - A--1/3 H - A--4 B--16 C--15 Science SI - A--1/3 B--1/3/5 PS - H--2/3

\*Identifies benchmarks that encourage critical thinking

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:995 (May 2004).

## Chapter 5. Strands

### §501. Introduction

A. Although Business Education is a curriculum that covers a wide range of topics, there are certain concepts that are common to all content areas. These concepts are defined as *strands*. *Career development, communication, computation, international business, interrelationships of*

*business and academics, technology, and work ethics and professionalism* are the seven strands identified in Business Education. All strands should be interwoven throughout the curriculum. The seven strands and their correlating benchmarks are listed below. In addition to content area benchmarks, benchmarks listed in each strand should be incorporated into each career major whenever possible. The nature of the courses in the career major will determine the number and identity of benchmarks which will be selected. Asterisks (\*) identify benchmarks that encourage critical

thinking. A table of suggestions of activities that incorporate the strands into the curriculum is also provided.

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### **§503. Career Development**

A. Career Development. Today's students will become tomorrow's workforce and will need to explore multiple career paths and continuously deal with the process of learning new skills. Career development should be integrated into the entire curriculum at all academic levels and continued as a lifelong process. Career development includes self-awareness, career research, workplace expectations, career strategies, school-to-work transitions, and lifelong learning.

#### **B. Benchmarks**

1. \*Assess personal strengths and weaknesses as they relate to career exploration and development.

2. Utilize career resources to develop an information base on content related careers including international occupational opportunities.

3. \*Relate work ethic, workplace relationships, diversity, and communication skills to career development.

4. Apply knowledge gained from individual assessment to a comprehensive set of goals and an individual career plan that develops strategies to make an effective transition from school to work and includes the importance of lifelong learning to career success.

5. Discuss specific qualifications and characteristics necessary for a career in a content-related field.

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### **§505. Communication**

A. Communication. Communication in all forms is a foundation skill for all business courses. Communicating clearly, fluently, strategically, technologically, critically, and creatively in society and in a variety of workplaces using reading, writing, speaking, and listening skills is an essential career and life skill.

#### **B. Benchmarks:**

1. Communicate in a clear, courteous, concise, and correct manner on personal and professional levels

2. Apply basic social communication skills in personal and professional situations

3. Use technology to enhance the effectiveness of communications

4. \*Integrate all forms of communication in the successful pursuit of a career

5. \*Incorporate appropriate leadership and supervision techniques, customer service strategies, and standards of personal ethics to communicate effectively with various business constituencies

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### **§507. Computation**

A. Computation. Business education courses offer unique opportunities for students to apply computational and

problem-solving skills in everyday business, personal, and consumer problems.

#### **B. Benchmarks:**

1. Apply mathematical operations using whole numbers, decimals, fractions,

percents, ratios, and proportions to solve problems

2. Use common international standards of measurement in solving problems

3. \*Analyze and interpret data using common statistical procedures

4. \*Use mathematical procedures to analyze and solve business problems for such areas as taxation; savings and investment; payroll records; cash management; financial statements; credit management; purchases; sales; inventory records; depreciation, cost recovery, and depletion

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### **§509. International Business**

A. International Business. Since business is conducted in a local, state, national, and international marketplace, students must understand how social, cultural, political, legal, and economic factors impact the business environment.

#### **B. Benchmarks:**

1. \*Explain the role of international business and analyze its impact on careers and doing business at the local, state, national, and international levels

2. Apply communication strategies necessary and appropriate for effective and profitable international business relations

3. Describe the social, cultural, political, legal, and economic factors that shape and impact the international business environment

4. Describe the environmental factors that define what is considered ethical business behavior

5. Explain the role, importance, and concepts of international finance and risk management

6. \*Discuss special challenges in the operations and management of human resources in international business

7. Apply marketing concepts to international business

8. \*Relate balance of trade concepts to the import/export process

9. Identify forms of business ownership and entrepreneurial opportunities available in international business

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:997 (May 2004).

### **§511. Interrelationships of Business and Academics**

A. Interrelationships of Business and Academics. A major component of developing a sound understanding of the modern business environment is identifying the interrelationships of business and academic skills and knowledge.

#### **B. Benchmarks:**

1. \*Analyze the interrelationships of a particular course being studied with various business content areas such as accounting, administrative support, business administration and management, economics and finance, information systems, and marketing



2. \*Participate in activities that interrelate the course being studied to other business content areas to enhance general business understanding

3. \*Apply knowledge and skills gained in academic courses such as English, mathematics, science, and social studies to problem solving in business education courses

4. \*Participate in projects integrating academic and business skills and knowledge

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:997 (May 2004).

### §513. Technology

A. Technology. Technology is advancing at a tremendous rate. It is necessary for students to develop an understanding of the current technology available and use that knowledge in decision-making and problem-solving processes.

B. Benchmarks:

1. \*Choose appropriate procedures and equipment to complete a task or job
2. Use the appropriate procedures for setup and operation of equipment
3. \*Prevent, identify, or solve problems with equipment
4. Research and analyze factors involved in obtaining appropriate technology

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### §515. Work Ethics and Professionalism

A. Work Ethics and Professionalism. A high-performance workplace requires employees who demonstrate proper workplace behavior, personal attributes, and a high level of interpersonal skills.

B. Benchmarks:

1. \*Demonstrate dependability and punctuality
2. \*Display initiative, enthusiasm, and a positive attitude
3. \*Demonstrate good customer relations skills
4. \*Operate within the scope of authority adhering to established company rules, regulations, and policies
5. Abide by the standard dress code of the workplace
6. \*Develop and adhere to appropriate interactive relationships for effective teamwork
7. \*Learn to accept praise and criticism in a positive manner
8. Accept responsibility for one's own decisions and actions
9. Maintain and enhance skills through participation in inservice or continuing education

### §517. Suggested Activities for Integrating Strands into Career Majors

	Accounting	Administrative Support	Business Administration and Management	Economics/Finance	Information Systems
Career Development	Research an accounting career available in the local community.	Use a career path to explain the need for and benefits of postsecondary training.	Research current publications and compose a list of the positive traits of successful attorneys, managers, or entrepreneurs.	Use the Occupational Outlook Handbook or Internet to identify jobs related to banking or Financial Math.	Use available technology to prepare a resume, cover letter, follow-up letter, and job application form.
Communication	Write a narrative report explaining data from a financial statement and present the report orally.	Work productively on team projects and prepare reports for multimedia presentation.	Listen to a guest speaker discuss communication skills important for success on the job.	Call a local bank and a local car dealership to inquire about the rate of interest on a specific valued car without insurance.	Interview an information systems professional, prepare a written report, and present it orally.
Computation	Compute and compare the current ratios from balance sheets of local businesses.	Construct, read, and interpret tables, charts, and graphs.	Determine what type of calculations and/or problem-solving skills are needed in a small business.	Compare the interest rate charged by a bank and a car dealership to see which is better.	Use an electronic spreadsheet program and graphs/charts to illustrate the ratio of M & M's to the whole package.
International Business	Compare foreign currencies and determine how exchange rates affect business.	Prepare an itinerary for a business trip to a foreign country including information on time zones, exchange rates, and cultural concerns.	Compare and contrast the cultural differences of three countries and how that would impact the way business is conducted.	Research the cost of a specific car sold in the U.S. and in other countries. Explain the difference.	Research a foreign product on the Internet and compare it to a similar U.S. product.

Interrelationships of Business and Academics	Research a company or product profitability and present findings to the class.	Develop a job description manual.	Use various sources to investigate the future outlook for growth for certain types of businesses such as service, manufacturing, etc. and prepare a presentation of the results.	Analyze the stock activity of General Motors, Chrysler, and Ford and use the information to determine whether to buy, sell, or keep the stock.	Set up a campus store to sell necessary school supplies and discuss how various business knowledge and skills contribute to the success of the store.
Technology	Use accounting software to journalize in a general journal and post to a general ledger.	Research and plan the purchase of the equipment necessary to equip a modern business office.	Install and use software that can help a business owner or manager develop a business plan.	Using the Internet, research and print the current stock rate for three (3) Fortune 500 companies.	Make a presentation to the class of the results of a study of the costs and features of current and emerging technology.
Work Ethics and Professionalism	Investigate accountability procedures used by local businesses.	Demonstrate dress for various business situations.	Survey local businesses to identify key ethical concerns and prepare a multimedia presentation.	Discuss a situation involving a bank employee disclosing confidential records of customers.	Research and discuss cases involving software piracy.

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## Chapter 7. Definitions

### §701. Definitions

**Academic Cross-Reference**Ca reference to related academic content standards.

**Applied Academics**Ca method of teaching in which the instructor presents subject matter in a way that relates a particular academic discipline to personal workforce application.

**Approved Program**Ca Business Education program that offers at least four of the recommended courses for a career major, two of which must be at the competency level.

**Articulation**Cthe process of linking two or more educational systems to produce a smooth flow of students from one institution to another without experiencing delays, duplication of courses, or loss of credit.

**Assessment**Ca process through which evidence is gathered in a range of content areas to determine both a student's understanding and ability to apply that understanding.

**Benchmark**Ca broad statement of expected skills and knowledge that is used as a reference to develop curriculum and assess student progress.

**Career Clusters**Cbroad categories of occupations that form the basis for initial career exploration and discovery.

**Career Path**Ca plan of study that will enable a student upon graduation, to be employed or enter a postsecondary school with a continuation of skills or course work already started at the high school level.

**Career Plan**Ca student's written plan for career and educational goals while in secondary school and beyond.

**Career Major**Ca specific course of study within a broader career cluster (Ex: Accounting within the Business career cluster).

**Competency Course**Ca required course in a career major.

**Content Standard**Ca description of what a student should know and be able to do through subject matter, knowledge, proficiencies, etc. gained as a result of their education.

**Cooperative Learning**Can instructional strategy used in many applied academic courses that involves learning in the context of sharing, responding, and communicating with other learners.

**Curriculum Framework**Can outline of broad goals and standards of a system of education.

**Focus Statement**Ca statement describing the importance of a career major.

**Foundation Skills**Cprocesses that are common to all areas and levels of education and are intended to suggest methods and objectives of instructional strategies.

**High Schools that Work**Ca process model developed by the Southern Regional Education Board (SREB) that focuses on applied learning, integration of academic and vocational content, and school-to-work transitions.

**Integrated**Crefers to combining elements across the strands within a particular content area or framework.

**Interdisciplinary**Ccombining elements across content areas in the curriculum.

**Lifelong Learning**Cthe concept of continued education and training, formal or informal, throughout one's career.

**Portfolios**Cpersonalized, sequential career planning journal designed to guide students through career development interests and aptitudes as they progress through school and beyond; including examples of student skill mastery.

**Related Elective Course**Can additional course offered to complement and enhance opportunities within a career major.

**School-Based Learning**Cprogram of instruction based on career majors, designed to meet high academic and occupational skill standards, which involves counseling and career exploration, and periodic evaluation of academic strengths and weaknesses.

**School-to-Work Transition**Ca system that enables students to identify and navigate paths to productive and progressively more rewarding roles in the workplace that encompasses three components: school-based learning; connecting activities; and work-based learning.

**Skill Standard**—the identification of the knowledge, skill, and level of ability needed to satisfactorily perform a given job.

**Strands**—concepts common to all content areas; strands are interrelated and should be integrated rather than taught in isolation.

**Tech Prep**—a sequence of study beginning in high school and continuing through at least two years of postsecondary occupational education to prepare students for high skilled jobs that require more than a high school diploma.

**Vocational Completer**—a student who successfully completes four courses in a career major (two must be competency courses and two must be selected from the competency courses and/or identified related electives).

**Work-Based Learning**—integration of theoretical instruction with a planned program of job training or experiences, paid work experience, workplace mentoring, instruction in general workplace competencies, and updating elements that will engage student interest, develop positive work attitudes, and prepare youth for high-skill, high-wage careers.

**Workplace Mentor**—an employee at the workplace who possesses the skills to be mastered by a student, and who instructs the student, critiques the student's performance, challenges the student to perform well, and works in consultation with classroom teachers and the employer.

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### §903. Competency and Elective Courses for Career Majors

- A. Competency and Elective Courses for Career Majors  
COMP, competency course ELEC, related elective course

Course Name (Related Standard No.)	Accounting	Administrative Support	Bus. Adm. & Mgt.	Economics /Finance	Information Systems
Accounting (1)	COMP	ELEC	COMP	COMP	ELEC
Administrative Support Occupations (4)	COMP				ELEC
Advanced/Computerized Accounting (2)	COMP		ELEC		
Business Computer Applications I & II (15)	ELEC	COMP	COMP	COMP	COMP
Business English (5)		COMP	ELEC	ELEC	ELEC
Business Law (9)	ELEC		COMP	ELEC	ELEC
Business Machines (6)	ELEC	COMP	ELEC		ELEC
Cooperative Office Education (7)	ELEC	COMP	ELEC	ELEC	ELEC
Computer Multimedia Presentations (16)	ELEC	ELEC	ELEC	ELEC	COMP
Desktop Publishing (17)		COMP	ELEC		COMP
Economics (13)			ELEC	COMP	
Education for Careers (3)	ELEC	ELEC	ELEC	ELEC	ELEC
Entrepreneurship (10)	ELEC		COMP	ELEC	
Financial Math (14)	ELEC	ELEC	ELEC	COMP	ELEC
Introduction to Business (11)	ELEC	ELEC	COMP	ELEC	ELEC
Introduction to Management (12)	ELEC	ELEC	COMP	ELEC	
Keyboarding/Keyboarding Applications (18)	ELEC	COMP	ELEC	ELEC	COMP
Records Management (8)	ELEC	COMP	ELEC		
Telecommunications (19)	ELEC	COMP	COMP	COMP	COMP
Word Processing (20)		COMP	ELEC		COMP

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### §905. Louisiana Content Standards Foundation Skills\*

- A. Through the collaboration of educators, the business community, and other citizens, the following foundation

## Chapter 9. Appendix

### §901. Suggested Course Titles for Business Education

- A. Suggested course titles for business education are:

1. accounting;
2. administrative support occupations;
3. advanced/computerized accounting;
4. business computer applications I & II;
5. business English;
6. business law;
7. business machines;
8. cooperative office education;
9. computer multimedia presentations;
10. desktop publishing;
11. economics;
12. education for careers;
13. entrepreneurship;
14. financial math;
15. introduction to business;
16. introduction to management;
17. keyboarding/keyboarding applications;
18. records management;
19. telecommunications;
20. word processing.

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skills have been identified as essential competencies needed to meet the demands of the classroom and the world beyond. These skills apply to all students in all disciplines:

1. Communication. A process by which information is exchanged and a concept of "meaning" is being created and shared between individuals through a common system of

symbols, signs, or behavior. Students should be able to communicate clearly, fluently, strategically, technologically, critically, and creatively in society and in a variety of workplaces. This process can best be accomplished through use of the following skills: reading, writing, speaking, listening, viewing, and visually representing.

2. **Problem Solving.** The identifying of an obstacle or challenge and the application of knowledge and thinking processes which include reasoning, decision making, and inquiry in order to reach a solution using multiple pathways, even when no routine path is apparent.

3. **Resource Access and Utilization.** The process of identifying, locating, selecting, and using resource tools to help in analyzing, synthesizing, and communicating information. The identification and employment of appropriate tools, techniques, and technologies are essential to all learning processes. These resource tools include pen, pencil, and paper; audio/video material; word processors; computers; interactive devices; telecommunication; and other emerging technologies.

4. **Linking and Generating Knowledge.** The effective use of cognitive processes to generate and link knowledge across the disciplines and in a variety of contexts. In order to engage in the principles of continual improvement, students must be able to transfer and elaborate on these processes. Transfer refers to the ability to apply a strategy or content knowledge effectively in a setting or context other than that in which it was originally learned. Elaboration refers to monitoring, adjusting, and expanding strategies into other contexts.

5. **Citizenship.** The application of the understanding of the ideals, rights, and responsibilities of active participation in a democratic republic that includes working respectfully and productively together for the benefit of the individual and the community; being accountable for one's choices and actions and understanding their impact on oneself and others; knowing one's civil, constitutional, and statutory rights; and mentoring others to be productive citizens and lifelong learners.

\*Developed by the Louisiana Department of Education, Louisiana Content Standards and Assessment Development Project, 1997.

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### **§907. Information Literacy Model For Lifelong Learning\*\***

A. Students must become competent and independent users of information to be productive citizens of the 21st century. They must be prepared to live in an information-rich and changing global society. Due to the rapid growth of technology, the amount of information available is accelerating so quickly that teachers are no longer able to impart a complete knowledge base in a subject area. In addition, students entering the workforce must know how to access information, solve problems, make decisions, and work as a part of a team. Therefore, *information literacy, the ability to recognize an information need, and then locate, evaluate, and use the needed information*, is a basic skill essential to the 21st century workplace and home. Information literate students are self-directed learners who, individually or collaboratively, use information responsibly

to create quality products and to be productive citizens. Information literacy skills must not be taught in isolation; they must be integrated across all content areas, utilizing fully the resources of the classroom, the school library media center, and the community. The Information Literacy Model for Lifelong Learning is a framework that teachers at all levels can apply to help students become independent lifelong learners.

1. **Defining/Focusing.** The first task is to recognize that an information need exists. Students make preliminary decisions about the type of information needed based on prior knowledge.

2. **Selecting Tools and Resources.** After students decide what information is needed, they then develop search strategies for locating and accessing appropriate, relevant sources in the school library media center, community libraries and agencies, resource people, and others as appropriate.

3. **Extracting and Recording.** Students examine the resources for readability, currency, usefulness, and bias. This task involves skimming or listening for key words, "chunking" reading, finding main ideas, and taking notes.

4. **Processing Information.** After recording information, students must examine and evaluate the data in order to utilize the information retrieved. Students must interact with the information by categorizing, analyzing, evaluating, and comparing for bias, inadequacies, omissions, errors, and value judgments. Based on their findings, they either move on to the next step or do additional research.

5. **Organizing Information.** Students effectively sort, manipulate, and organize the information that was retrieved. They make decisions on how to use and communicate their findings.

6. **Presenting Findings.** Students apply and communicate what they have learned (e.g., research report, project, illustration, dramatization, portfolio, book, book report, map, oral/audiovisual presentation, game, bibliography, hyper stack).

7. **Evaluating Efforts.** Throughout the information problem solving process, students evaluate their efforts. This assists students in determining the effectiveness of the research process. The final product may be evaluated by the teacher and also other qualified or interested resource persons.

\*\*Developed by the Louisiana Department of Education, Louisiana Content Standards and Assessment Development Project, 1997.

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### **§909. Scans Workplace Skills**

A. The Secretary's Commission on Achieving Necessary Skills (SCANS) was appointed by the U.S. Secretary of Labor in 1990 to determine the skills young people need to succeed in the world of work. Members of the commission were education experts, teachers, executives, and labor officials representing a variety of industries. The commission's purpose was to encourage a high-performance economy characterized by high-skill, high-wage employment.

B. The initial SCANS report, *What Work Requires of Schools*, was issued in 1991 and defines the five

competencies and three-part foundation that compose the SCANS skills. SCANS skills are appropriate for all students, regardless of their high school programs or postsecondary plans. All students will work, and all work requires important common foundation skills. A high-performance workplace requires workers with a solid foundation in basic literacy and computational skills, thinking skills, and personal qualities. Equally important are the generic workplace competencies of managing resources, interpersonal relationships, acquiring and using information, managing systems, and working with a variety of technologies. These SCANS workplace skills form the underlying foundation upon which the entire business education curriculum is built.

C. Listed below are the foundation skills and workplace competencies identified by the SCANS commission and published in its first report, *What Work Requires of Schools: A SCANS Report for America 2000*, a publication of the U.S. Department of Labor, June 1991. Business educators are encouraged to incorporate the SCANS skills and competencies throughout the curriculum.

#### D. Three-Part Foundation Skills

1. Basic Skills Creads, writes, performs arithmetic and mathematical operations, listens, and speaks.

a. Reading Clocates, understands, and interprets written information in prose and in documents such as manuals, graphs, and schedules to perform tasks.

b. Writing Ccommunicates thoughts, ideas, information, and messages in writing; and creates documents such as letters, directions, manuals, reports, graphs, and flow charts.

c. Arithmetic/Mathematics Cperforms basic computations and approaches practical problems by choosing appropriately from a variety of mathematical techniques.

d. Listening Creceives, attends to, interprets, and responds to verbal messages and other cues.

e. Speaking Corganizes ideas and communicates oral messages appropriate to listeners and situations.

2. Thinking Skills Cthinks creatively, makes decisions, solves problems, visualizes, knows how to learn, and reasons.

a. Creative Thinking Cuses imagination freely, combines ideas or information in new ways, makes connections between seemingly unrelated ideas, and reshapes goals in ways that reveal new possibilities.

b. Decision Making Cspecifies goals and constraints, generates alternatives, considers risks, and evaluates and chooses best alternative.

c. Problem Solving Crecognizes problems, devises and implements plan of action, evaluates and monitors progress, and revises plan as indicated by findings.

d. Seeing Things in the Mind's Eye Corganizes and processes symbols, pictures, graphs, objects, and other information.

e. Knowing How to Learn Cuses efficient learning techniques to acquire and apply new knowledge and skills in both familiar and changing situations.

f. Reasoning Cdiscovers a rule or principle underlying the relationship between two or more objects and applies it when solving a problem.

3. Personal Qualities Cdisplays responsibility, self-esteem, sociability, self-management, and integrity and honesty.

a. Responsibility Cexerts a high level of effort and perseveres toward goal attainment through high standards, attention to details, work, concentration and high standards of attendance, punctuality, enthusiasm, vitality, and optimism.

b. Self-Esteem Cbelieves in own self-worth and maintains a positive view of self.

c. Sociability Cdemonstrates understanding, friendliness, adaptability, empathy, and politeness in group settings.

d. Self-Management Cassesses self accurately, sets personal goals, monitors progress, and exhibits self-control.

e. Integrity/Honesty Ccan be trusted and chooses an ethical course of action.

#### E. Five Workplace Competencies

1. Resource Cidentifies, organizes, plans, and allocates resources.

a. Time Cselects goal-relevant activities, ranks them, allocates time, and prepares and follows schedules.

b. Money Cuses or prepares budgets, makes forecasts, keeps records, and makes adjustments to meet objectives.

c. Material and Facilities Cacquires, stores, allocates, and uses materials or space efficiently.

d. Human Resources Cassesses knowledge and skills and distributes work accordingly, evaluates performance, and provides feedback.

2. Interpersonal Cworks with others

a. Participates as Member of a Team Cworks cooperatively with others and contributes to group effort.

b. Teaches Others New Skills Chelps others learn.

c. Serves Clients/Customers Cworks to satisfy customers' expectations.

d. Exercises Leadership Ccommunicates ideas to justify position, persuades and convinces others, and responsibly challenges existing procedures and policies.

e. Negotiates Cworks toward agreements involving exchange of resources, resolves divergent interests.

F. Works with Diversity Cworks well with men and women from diverse backgrounds

3. Information Cacquires and uses information

a. Acquires and Evaluates Information Cidentifies need for data, obtains or creates it, and evaluates its relevance and accuracy.

b. Organizes and Maintains Information Corganizes, processes, and maintains written or computerized records and other forms of information in a systematic fashion.

c. Interprets and Communicates Information Cselects and analyzes information and communicates the results to others.

d. Uses Computers to Process Information Cemploys computers to acquire, organize, analyze, and communicate information.

4. Systems. Understands complex interrelationships  
a. Understands Systems Cknows how social, organizational, and technological systems work and operates effectively with them.

b. Monitors and Corrects Performance Cdistinguishes trends, predicts impacts on system operations, diagnoses deviations in systems' performance, and corrects malfunctions.

c. Improves or Designs Systems CSuggests modifications to existing systems and develops new or alternative systems to improve performance.

5. Technology. Works with a variety of technologies

a. Selects Technology Cchooses procedures, tools, or equipment including computers and related technologies to produce the desired results.

b. Applies Technology to Task Cunderstands overall intent and proper procedures for setup and operation of equipment.

c. Maintains and Troubleshoots Equipment Cprevents, identifies, or solves problems with equipment, including computers and other technologies.

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#### **§911. School-to-Work Transition**

A. Employers state that it is difficult to find workers with the academic, analytical, and technical skills necessary to meet the demands of a highly competitive global economy. Realizing that education, skills training, and worker preparedness are essential to the country's economic well being, several pieces of legislation have provided the impetus and funding for the movement to educate students for the workplace. Beginning with the Carl D. Perkins Vocational and Applied Technology Education Act in 1990 through the Goals 2000: Educate America Act and the School-to-Work Opportunities Act in 1994, national attention has been focused on developing a school-to-work transition system to create a highly skilled workforce.

B. The School-to-Work Opportunities Act establishes a national framework to broaden the educational, career, and economic opportunities for all youth through partnerships between businesses, schools, community-based organizations, and state and local governments. Workplaces become active learning environments; employers become joint partners with educators to train students; and schools challenge students to higher academic and skill standards. School-to-work opportunities grow from strong partnerships at the state and local community level that design and implement systems tailored to meet specific needs.

C. School-to-work systems contain three core elements: School-based Learning, Work-based Learning, and Connecting Activities.

D. Strategies for better educating students for the workplace include:

1. career research and information beginning in early grades;

2. applied academic courses that present subject matter in a way that connects abstract knowledge to workplace applications using cooperative learning strategies;

3. integration of vocational and academic subjects;

4. counseling and career pathways to focus students in their choice of courses to study;

5. articulation between secondary and postsecondary education;

6. collaborative partnerships between education, business, labor, and communities in the total education experience of students;

7. integration of school-based and work-based learning through:

a. Vocational Cooperative Programs Cprovides school-supervised work experiences

b. Apprenticeships Con-the-job training and related instruction

c. Career Academies (School Within a School) Cintegrates academic and vocational courses and provides workplace learning in a particular career focus area

d. Job Shadowing Cprovides information about a job or position through the student following or "shadowing" a worker for a short period of time

e. Job Mentoring Cprovides more specific job information and actual work experience as a student is assigned to an adult worker (mentor) who models workplace behavior, skills, and training in a one-to-one relationship

f. School-Based Enterprises Cwork simulation within the school in the form of stores, print shops, child care centers, etc. operated by the students

g. Work Simulation Cprovides work experience education either in the classroom or in the community through simulated work experiences

h. Volunteer Service Programs Cprovides the opportunity to gain employability and work skills outside the classroom through experiences in developing and improving the community

i. Vocational Student Organizations Cprovides work-based experiences for students through formalized events, demonstrations, volunteer work, and leadership training

E. Business educators are leaders in school-to-work transition and mentors for our fellow educators. Many resources are available for use in integrating school-to-work strategies into the curriculum and determining articulation guidelines that allow students to have a seamless transition from secondary to postsecondary education. Some of these resources are listed in the appendix of this document.

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#### **§913. Future Business Leaders of America**

A. Membership in vocational student organizations is encouraged for individuals enrolled in vocational education programs which engage in activities as an integral part of the instructional program. The vocational student organization for Business Education at the secondary level is the Future Business Leaders of America (FBLA). In addition to FBLA for high school students (grades 9-12), there are three other divisions: FBLA-Middle Level for junior high and intermediate school students (grades 5-8); PBL (Phi Beta Lambda) for postsecondary students; and a Professional division for business people, educators, and parents who support the goals of the association.

B. FBLA contributes significantly to the motivation, education, and total development of students through activities that develop leadership abilities, citizenship skills, social competencies, and a wholesome attitude about living

and working. As a unique teaching tool, FBLA enhances, enriches, complements, and supplements the business education program as indicated by the nine national goals of FBLA:

1. develop competent, aggressive business leadership;
2. strengthen the confidence of students in themselves and their work;
3. create more interest in and understanding of American business;
4. encourage members in the development of individual projects which contribute to the improvement of home, business and community;
5. develop character, prepare for useful citizenship and foster patriotism;
6. encourage and practice efficient money management;
7. encourage scholarship and promote school loyalty;
8. assist students in the establishment of occupational goals;
9. facilitate the transition from school to work.

C. Louisiana's first chapter of FBLA was organized at Natchitoches High School in 1947. In 1949 the representatives of the three organized chapters in the state met with Richard D. Clanton to form the Louisiana State Chapter. Mr. Clanton, adviser at Bolton High School, was elected State Adviser, and work began on a state constitution. In 1950, the State Chapter, with 13 chapters chartered, adopted the constitution.

D. Membership increased and Louisiana led the nation in the number of local chapters in attendance at the National Leadership Conference. Jeron LaFargue from Sulphur High served as the first national president of FBLA in 1952-53. Since then five other Louisianans have served as FBLA national president.

E. Currently, Louisiana is divided into seven districts, each with an elected vice president. The state chapter is governed by the state executive council composed of student officers: a president, the vice presidents from each district, a secretary, a treasurer, a reporter, and a parliamentarian. Local chapter advisers of the officers serve as ex-officio members of the council with the State Chair. There are over nine thousand members in 252 active chapters of FBLA in Louisiana.

F. Conferences held throughout the year allow students to interact with students from all over the state and nation as well as business and industry representatives. Leadership abilities and group interaction skills are strengthened by participation at these conferences. Students reinforce business skills and knowledge by competing in individual and team events on district, state, and national levels. The competitive FBLA events are:

Computer Applications	Parliamentary Procedures (Team of 4, 5)
Computer Concepts	Public Speaking
Desktop Publishing (Team of 2)	Word Processing
Economics	Current Events & General Information (Team of 3)
Entrepreneurship (Team of 3)	Richard D. Clanton Memorial Award (state)
FBLA Principles and Procedures	Louisiana Who's Who in FBLA Award (state and national)
Impromptu Speaking	Gold Seal Chapter Award of Merit (state)
Information Processing Concepts	
Introduction to Business	

G. Future Business Leaders of America programs are designed to encourage students to set career goals, develop self-confidence, learn about the problems and opportunities inherent in American business, and gain actual business experience during their school years. Through involvement in school and community, members learn the importance of developing their abilities to the fullest and build the confidence necessary to realize their potential.

H. Students continuing their education at the university level should consider becoming involved with the postsecondary division, Phi Beta Lambda (PBL). Students who continue their education in the Louisiana Technical College System should consider membership in Phi Beta Lambda (PBL) or Vocational Industrial Clubs of America (VICA).

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### §915. Professional Development

A. Business Education teachers are encouraged to join professional organizations that can provide opportunities for professional development. The diverse and ever-changing subject area of Business Education makes it necessary for educators to remain current with advancing technology, the changing workplace, and meeting student needs. Professional organizations provide conferences and workshops, magazines and newsletters, and opportunities to network with peers to exchange ideas.

B. The following organizations are associated with Business Education and provide professional development opportunities for educators:

1. National Business Education Association;
2. Southern Business Education Association (Regional Affiliation for NBEA);
3. Louisiana Association of Business Educators;
4. Louisiana Association of Computer-Using Educators;
5. Region IV Division Louisiana Vocational Association; and
6. Delta Pi Epsilon (Professional Business Education fraternity).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1004 (May 2004).

### §917. Referenced Academic Content Standards

A. The following is a list of the content standards and benchmarks that have been referenced in this document. All

Accounting I	Introduction to Business Communication
Accounting II	Introduction to Impromptu Speaking
Business Calculations	Introduction to Parliamentary Procedures
Business Communication	Job Description Manual (state)
Business Law	Job Interview
Business Math	Keyboarding Applications
Business Procedures	Machine Transcription
Community Service Project (state)	Mr. & Ms. Future Business Leader

referenced content area standards and benchmarks are for students in grades 9 - 12.

## 1. English Language Arts (ELA)

Standard One. Students read, comprehend, and respond to a variety of materials for a variety of purposes.

1--Using knowledge of word meaning and extending basic and technical vocabulary, employing a variety of strategies

3--Reading, responding to, and critiquing written, spoken, and visual texts

4--Interpreting texts to generate connections to real-life situations

5--Applying reading strategies to achieve a variety of objectives

Standard Two. Students write competently for a variety of purposes and audiences.

1--Focusing on information, concepts, and ideas that show an awareness of an intended audience and/or purpose

2--Applying the steps of the writing process

3--Using narration, description, exposition, and persuasion to develop various modes of writing

4--Recognizing and applying literary devices and various stylistic elements

5--Responding to text and life experiences as a basis for writing

Standard Three: Students communicate using conventional grammar, usage, sentence structure, punctuation, capitalization, spelling, and handwriting.

1--Writing legibly

2--Demonstrating a command of the grammatical and mechanical conventions of standard English

3--Spelling and pronouncing correctly using resources

Standard Four: Students demonstrate competence in speaking and listening as tools for learning and communicating.

1--Speaking intelligibly

2--Giving and following directions/procedures

3--Demonstrating a command of the features of speaking when giving prepared and extemporaneous presentations

4--Speaking and listening for a variety of audiences and purposes

5--Listening and responding to a wide variety of media

6--Participating in a variety of roles in group discussions

Standard Five: Students locate, select, and make use of information from a variety of texts, media, references, and technological sources.

1--Recognizing and using organizational features of printed text, other media, and electronic information

2--Locating and evaluating information sources

3--Accessing information and conducting research using outlining, note taking, summarizing, interviewing, and surveying to produce documented texts and graphics

4--Using available technology to produce, revise, and publish a variety of works

5--Citing references using various formats

6--Interpreting charts/graphs, tables/schedules, diagrams/maps, and organizational charts/flowcharts

Standard Seven: Students apply reasoning skills to their reading, writing, speaking, listening, viewing, and visually representing.

1--Using comprehension strategies in all contexts

2--Problem solving by analyzing, prioritizing, categorizing, and evaluating; incorporating life experiences; and using available information

4--Distinguishing fact from opinion, skimming and scanning for facts, determining cause and effect, generating inquiry, and making connections with real-life situations

## 2. Mathematics

Number and Number Relations Strand (N): In problem-solving investigations, use estimation, mental arithmetic, number lines, graphs, appropriate models, manipulatives, calculators, and computers to help develop an intuitive understanding of the real number system and communicate the relationships within that system.

N.1--Demonstrating an understanding of number systems

N.2--Demonstrating that a number can be expressed in many forms, and selecting an appropriate form for a given situation

N.3--Using number sense to estimate and determine reasonableness of solutions

N.4--Determining whether an exact or approximate answer is necessary

N.5--Selecting and using appropriate computational methods for given situations

N.6--Applying ratios and proportional thinking in a variety of situations

N.7--Justifying reasonableness of solutions and verifying results

Algebra Strand (A): In problem-solving investigations, use appropriate manipulatives, models, graphs, tables, and technology to develop the understanding of concepts and to explore the applications of algebra.

A.1--Demonstrating the ability to translate between real world situations and algebraic expressions, equations, and language

A.3--Using tables and graphs as tools to interpret algebraic expressions, equations and inequalities

A.4--Solving algebraic equations and inequalities using appropriate techniques

Measurement Strand (M): In problem-solving investigations, use appropriate manipulatives and available technology to develop the understanding of the concepts, processes, and real-life applications of measurement.

M.1--Selecting and using appropriate units, techniques, and tools to measure quantities in order to achieve specified degrees of precision, accuracy, and error (or tolerance) of measurements

M.3--Estimating, computing, and applying physical measurement using suitable units

M.4--Demonstrating the concept of measurement as it applies to real world experiences

Geometry Strand (G): In problem-solving investigations, use appropriate models, drawings, manipulatives, and technology to understand concepts and explore real-world applications of one-, two-, and three-dimensional geometry, and justify solutions.

G.6--Demonstrating deductive reasoning and justification

Data, Discrete Math, and Probability (D): In problem-solving investigations, use appropriate collecting and organizational techniques, manipulatives, and technology in order to discover trends, to formulate conjectures regarding cause-and-effect relationships, and to develop critical-thinking skills that enable the student to make informed decisions.

D.1--Collecting and representing data in various forms

D.2--Recognizing data that relates two variables as linear, exponential, or otherwise in nature

D.3--Using simulations to estimate probability



D.4--Demonstrating an understanding of the calculation of finite probabilities using permutations, combinations, sample spaces, and geometric figures

D.5--Recognizing events as dependent or independent in nature and demonstrating techniques for computing multiple event probabilities

D.6--Demonstrating the concept of distributions and recognizing normal and non-normal distributions

D.7--Making inferences from data that are organized in charts, tables, and graphs

D.8--Demonstrating logical thinking procedures such as flow charts and truth tables

D.9--Using discrete math to model real life situations

Patterns, Relations, and Functions (P): In problem-solving investigations, use appropriate number sense, manipulatives, drawings, tables, graphs, symbolic formulas, and technology to organize information, recognize patterns which may develop, and use those patterns to make predictions.

P.1--Modeling the concepts of variables, functions, and relations as they occur in the real world and using the basic notations and terminology

P.2--Translating between tabular, symbolic, and graphical representations of functions

P.4--Analyzing the changes in the graphs of functions caused by changing the coefficients and constants of arbitrary functions using technology whenever appropriate

P.5--Analyzing real world relationships that can be modeled locally or globally by elementary functions

### 3. Social Studies

Geography Strand: Physical and Cultural Systems (G): Students develop a spatial understanding of the Earth's surface and the processes that shape it, the connections between people and places, and the relationship between man and his environment.

Benchmark B: Places and Regions

1--Determining how social, cultural, and economic processes shape the features of places

2--Analyzing the ways in which physical and human characteristics of places and regions have affected historic events

3--Analyzing the different ways in which physical and human regions are structured and interconnected

4--Explaining and evaluating the importance of places and regions to cultural identity

Benchmark C: Physical and Human Systems

2--Determining the economic, political, and social factors that contribute to human migration and settlement and evaluating their impact on physical and human systems

3--Analyzing the characteristics, distribution, and interrelationships of the world's cultures

4--Analyzing how cooperation, conflict, and self-interests impact social, political, and economic entities on Earth

Benchmark D: Environment and Society

1--Evaluating the ways in which technology has expanded the human capability to modify the physical environment

2--Examining the challenges placed on human systems by the physical environment and formulating strategies to deal with these challenges

3--Analyzing the relationship between natural resources and the exploration, colonization, and settlement of different regions of the world

4--Evaluating policies and programs related to the use of natural resources

5--Developing plans to solve local and regional geographic problems related to contemporary issues

Civics Strand. Citizenship and Government (C): Students develop an understanding of the structure and purposes of government, the

foundations of the American democratic system, and the role of the United States in the world while learning about the rights and responsibilities of citizenship.

Benchmark A: Structure and Purposes of Government

1--Analyzing the necessity and purposes of politics and government

2--Comparing and evaluating the essential characteristics of various systems of government and identifying historical and contemporary examples of each

3--Explaining and evaluating issues related to the distribution of powers and responsibilities within the federal system

4--Explaining the organization and functions of local, state, and national governments and evaluating their relationships

5--Evaluating the role and importance of law in the American political system

6--Examining the major responsibilities of the national government for domestic and foreign policy and explaining how government is financed through taxation

Benchmark B: Foundations of the American Political System

4--Evaluating issues related to the differences between American ideals and the realities of American social and political life

5--Evaluating the roles of political parties, campaigns, and elections in American politics

6--Analyzing the historical and contemporary roles of associations and groups in local, state, and national politics

Benchmark C: International Relationships

1--Analyzing how the world is organized politically and evaluating how the interaction of political entities, such as nation-states and international organizations, affects the United States

2--Analyzing the major foreign policy positions of the United States and evaluating their consequences

3--Evaluating the impact of American ideas and actions on the world and analyzing the effects of significant international developments on the United States

Benchmark D: Roles of the Citizen

1--Evaluating and defending positions on issues regarding the personal, political, and economic rights of citizens

2--Evaluating and defending positions regarding the personal and civic responsibilities of citizens in American constitutional democracy

3--Explaining and evaluating the various forms of political participation that citizens can use to monitor and shape the formation and implementation of public policy

4--Analyzing and evaluating the importance of political leadership, public service, and a knowledgeable citizenry to American constitutional democracy

Economics Strand: Interdependence and Decision Making (E): Students develop an understanding of fundamental economic concepts as they apply to the interdependence and decision making of individuals, households, businesses, and governments in the United States and the world.

Benchmark A: Fundamental Economic Concepts

1--Analyzing the impact of the scarcity of productive resources and examining the choices and opportunity cost that result

2--Analyzing the roles that production, distribution, and consumption play in economic decisions

3--Applying the skills and knowledge necessary in making decisions about career options

4--Comparing and evaluating basic economic systems

5--Explaining the basic features of market structures and exchanges

6--Analyzing the roles of economic institutions, such as corporations and labor unions, that compose economic systems

7--Analyzing the roles of money and banking in an economic system

8--Applying economic concepts to understand and evaluate historical and contemporary issues

Benchmark B: Individuals, Households, Businesses, and Governments

1--Analyzing how supply and demand, price, incentives, and profit influence production and distribution in a competitive market system

2--Analyzing the impact of governmental taxation, spending, and regulation on different groups in a market economy

3--Analyzing the causes and consequences of worldwide economic interdependence

4--Evaluating the effects of domestic policies on international trade

5--Analyzing Louisiana's role in the world economy

Benchmark C: The Economy as a Whole

1--Explaining indicators, such as Gross Domestic Product and inflation/deflation, that have an impact on the state of the economy

2--Analyzing unemployment and income distribution in a market economy

3--Explaining the basic concepts of United States fiscal policy and monetary policy and describing their effects on the economy

History Strand: Time, Continuity, and Change (H): Students develop a sense of historical time and historical perspective as they study the history of their community, state, nation, and world.

Benchmark A: Historical Thinking Skills

4--Utilizing knowledge of facts and concepts drawn from history and methods of historical inquiry to analyze historical and contemporary issues

Benchmark B: United States History

11--Analyzing the causes, developments, and effects of the Great Depression and the New Deal

12--Analyzing the origins, events, and results of World War II

13--Examining and summarizing key developments in foreign and domestic policies during the Cold War era

14--Analyzing the economic, political, social, and cultural transformation of the United States since World War II

15--Explaining the major changes that have resulted as the United States has moved from an industrial to an information society

16--Analyzing developments and issues in contemporary American society

17--Discussing and demonstrating an understanding of recent developments in foreign and domestic policies

Benchmark C: World History

13--Analyzing the causes and international consequences of World War I, World War II, and other 20th century conflicts

14--Analyzing the international power shifts and the breakup of colonial empires that occurred in the years following World War II

15--Explaining the worldwide significance of major political, economic, social, cultural, and technological developments and trends

#### 4. Science

Science As Inquiry Strand (SI): Students do science by engaging in partial and full inquiries that are within their developmental capabilities.

Benchmark A: The Abilities Necessary to do Scientific Inquiry

1--Identifying questions and concepts that guide scientific investigations

2--Designing and conducting scientific investigations

3--Using technology to improve investigations and communications

4--Formulating and revising scientific explanations and models using logic and evidence

5--Recognizing and analyzing alternative explanations and models

6--Communicating and defending a scientific argument

Benchmark B: Understanding Scientific Inquiry

1--Understanding that scientists usually base their investigations on existing questions or causal/functional questions

2--Understanding that scientists conduct investigations for a variety of reasons, such as exploration of new areas, discovery of new aspects of the natural world, confirmation of prior investigations, prediction of current theories, and comparison of models and theories

3--Understanding that scientists rely on technology to enhance the gathering and manipulation of data

4--Understanding that scientists must adhere to criteria such as: A proposed explanation must have a logical structure, abide by the rules of evidence, be open to questions and modifications, be based on historical and current scientific knowledge, and be adequately reported to enhance further investigations

5--Understanding that results of scientific inquiry, new knowledge, and methods emerge from different types of investigations and public communication among scientists

Physical Science Strand (PS): Students develop an understanding of the characteristics and interrelationships of matter and energy in the physical world

Benchmark H: Science and Technology

2--Developing an awareness and appreciation for the continuing progress in technology as it affects the quality of individual lives as well as of society in order to become better informed citizens and consumers

3--Becoming computer literate and proficient as it applies to the computer's capability to acquire data (with sensors), interpret data (by graphing), and as a research tool (library and Internet)

Life Science Strand (LS): Students become aware of the characteristics and life cycles of organisms and understand their relationships to each other and to their environment.

Benchmark F: Systems and the Behavior of Organisms

3--Investigating mechanisms that affect behavior

Benchmark G: Personal and Community Health

1--Discussing fitness and health as related to longevity

Science and the Environment Strand (SE): In learning environmental science, students develop an appreciation of the natural environment, learn the value of environmental quality, and acquire a sense of stewardship through involvement in community action. As consumers and citizens, they are able to recognize how personal, professional, and political actions affect the natural world.

Benchmark A: Ecological Systems and Interactions

2--Demonstrating an understanding of the functions and values of Earth's major ecological systems

6--Describing how habitat, carrying capacity, and limiting factors influence plant and animal populations (including humans)

7--Demonstrating an understanding that change is a fundamental characteristic of every ecosystem and that ecosystems have varying capacities for change and recovery

9--Demonstrating an understanding of how the Earth's biodiversity may be threatened by human actions and natural forces

11--Describing how unwanted substances (pollutants) can bioaccumulate and adversely affect organisms, while some pollutants can be naturally decomposed through the action of microbes

Benchmark B: Resources and Resource Management

1--Comparing and contrasting the various types of renewable and nonrenewable resources and explaining the relationships between these resources and populations

2--Explaining how natural resources affect humans and how humans affect natural resources

3--Recognizing that people of the world consume disproportionate amounts of the Earth's resources, a factor of both

population size and inequitable geographic or economic distribution of resources

4--Demonstrating an understanding that resource management issues and environmental problems may arise when resource use is motivated by short-term goals instead of long-term consequences

5--Comparing the benefits and the costs of various resource management methods

6--Analyzing how management of resources requires that they be viewed from a global, as well as a local, perspective

7--Recognizing that sustainable development is a process of change in which resource use, investment direction, technological development, and institutional change meet society's future as well as present needs

Benchmark D: Personal Choices and Responsible Actions

1--Demonstrating an understanding of the effects of personal choices and actions on the natural environment

2--Describing how a healthy environment depends upon responsible human actions

3--Analyzing how people are capable of reducing and reversing their negative impact on the environment through thinking, planning, educating, collaborating, and taking action

4--Demonstrating that the most important factor in prevention and control of pollution is education and the resulting change in values, attitudes, and behavior patterns

5--Explaining how responsible environmental decision-making involves scientific and sociological research, consideration of value systems, investigation and evaluation of alternative, and long-term global perspectives

6--Demonstrating a knowledge that environmental issues should be an international concern

7--Recognizing that philosophies, objectives, and practices of various types of resource management are sometimes incompatible, often necessitating compromises and tradeoffs

8--Recognizing that the development of accountability toward the environment is essential for the continued health of the planet

9--Developing an awareness of personal responsibility as stewards of the local and global environment

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1004 (May 2004).

Weegie Peabody  
Executive Director

0405#011

## **RULE**

### **Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division**

2003 Incorporation by Reference for Air Quality  
(LAC 33:III.507, 1432, 2160, 3003,  
5116, 5122, 5311, and 5901)(AQ241\*)

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.507, 1432, 2160, 3003, 5116, 5122, 5311, and 5901 (Log #AQ241\*).

This Rule is identical to federal regulations found in 40 CFR Parts 51, Appendix M, 60, 61, 63, 68, 70.6(a), and 93, Subpart A, July 1, 2003, which are applicable in Louisiana. For more information regarding the federal requirement,

contact the Regulation Development Section at (225) 219-3550 or Box 4314, Baton Rouge, LA 70821-4314. No fiscal or economic impact will result from the Rule; therefore, the Rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This rulemaking incorporates by reference into Louisiana's air quality regulations the corresponding federal regulations in 40 CFR Parts 51, Appendix M, 60, 61, 63, 68, 70.6(a), and 93, Subpart A, July 1, 2003. Exceptions to the incorporated regulations are explicitly listed in the proposed Rule. In order for Louisiana to maintain equivalency with federal regulations, the most current Code of Federal Regulations must be adopted into the LAC. This rulemaking is necessary to maintain delegation, authorization, etc. granted to Louisiana by EPA. The basis and rationale for this Rule are to mirror the federal regulations as they apply to Louisiana's affected sources.

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

## **Title 33 ENVIRONMENTAL QUALITY Part III. Air**

### **Chapter 5. Permit Procedures**

#### **§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, 2003. 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).

**Chapter 14. Conformity**  
**Subchapter B. Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded, or Approved Under Title 23 U.S.C. or the Federal Transit Act**

**§1432. Incorporation by Reference**

A. 40 CFR Part 93, Subpart A, July 1, 2003, is hereby incorporated by reference with the exclusion of Section 105.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 24:1280 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 29:697 (May 2003), LR 30:1009 (May 2004).

**Chapter 21. Control of Emission of Organic Compounds**  
**Subchapter N. Method 43C Capture Efficiency Test Procedures**

**§2160. Procedures**

A. Except as provided in Subsection C of this Section, the regulations at 40 CFR Part 51, Appendix M, July 1, 2003, 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).

**Chapter 30. Standards of Performance for New Stationary Sources (NSPS)**

**Subchapter A. Incorporation by Reference (IBR)**

**§3003. IBR 40 Code of Federal Regulations (CFR) Part 60**

A. Except 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, 2003, are hereby incorporated by reference as they apply to the state of Louisiana.

B. - B.6. ...

7. 40 CFR Part 60, Subpart B, Adoption and Submittal of State Plans for Designated Facilities, and 40 CFR Part 60, Subpart C, Emission Guidelines and Compliance Times, are not included in this incorporation by reference.

8. The minimum standards of the following emission guidelines of 40 CFR Part 60 that are incorporated by reference shall be applied to applicable units in the state.

40 CFR Part 60	Subpart Heading
Subpart Cb	Emissions Guidelines and Compliance Times for Large Municipal Waste Combustors That Are Constructed on or Before September 20, 1994
Subpart Cc	Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills
Subpart Cd	Emission Guidelines and Compliance Times for Sulfuric Acid Production Units
Subpart Ce	Emission Guidelines and Compliance Times for Hospital/Medical/Infectious Waste Incinerators

40 CFR Part 60	Subpart Heading
Subpart AAA	Standards of Performance for New Residential Wood Heaters
Subpart BBBB	Emission Guidelines and Compliance Times for Small Municipal Waste Combustion Units Constructed on or Before August 30, 1999
Subpart DDDD	Emission Guidelines and Compliance Times for Commercial and Industrial Waste Incineration Units That Commenced Construction On or Before November 30, 1999

C. Copies of documents incorporated by reference in this Chapter may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20242 or their website, [www.gpoaccess.gov/cfr/index.html](http://www.gpoaccess.gov/cfr/index.html), from the Department of Environmental Quality, Office of Environmental Services, Permits Division, or from a public library.

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), LR 25:1239 (July 1999), LR 25:1797 (October 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, 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).

**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, 2003, 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. - B.2. ...

C. Copies of documents incorporated by reference in this Chapter may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20242 or their website, [www.gpoaccess.gov/cfr/index.html](http://www.gpoaccess.gov/cfr/index.html), from the Department of Environmental Quality, Office of Environmental Services, Permits Division, or from a public library.

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), LR 25:1464 (August 1999), LR 25:1797 (October 1999), amended by the Office of Environmental Assessment, Environmental

Planning Division, 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).

**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, 2003, are hereby incorporated by reference as they apply to major sources in the state of Louisiana.

B. Copies of documents incorporated by reference in this Chapter may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20242 or their website, [www.gpoaccess.gov/cfr/index.html](http://www.gpoaccess.gov/cfr/index.html), from the Department of Environmental Quality, Office of Environmental Services, Permits Division, or from a public library.

C. - C.2. ...

3. 40 CFR Part 63, Subpart E, Approval of State Programs and Delegation of Federal Authorities, is not included in this incorporation by reference.

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), LR 25:1464 (August 1999), LR 25:1798 (October 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, 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).

**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, 2003, and specifically listed in the following table, are hereby incorporated by reference as they apply to area sources in the state of Louisiana.

40 CFR Part 63	Subpart /Appendix Heading
*** [See Prior Text in Subparts A – VVV]	
Subpart AAAA	National Emission Standards for Hazardous Air Pollutants: Municipal Solid Waste Landfills

B. Copies of documents incorporated by reference in this Chapter may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20242 or their website, [www.gpoaccess.gov/cfr/index.html](http://www.gpoaccess.gov/cfr/index.html), from the Department of Environmental Quality, Office of Environmental Services, Permits Division, or from a public library.

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), LR 25:1464 (August 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, 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).

**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, 2003.

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).

James H. Brent, Ph.D.  
 Assistant Secretary

0405#016

**RULE**

**Office of the Governor  
 Board of Examiners of Interior Designers**

Comprehensive Rule Revision  
 (LAC 46:XLIII.Chapters 1-11)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Louisiana Interior Designers Licensing Law (R.S. 37:3171 et seq.), the State Board of Examiners of Interior Designers has amended the rules of the State Board of Examiners of Interior Designers.

This Rule is promulgated to comply with Act 426 of 1999, which amended the licensing law to provide for a Practice Act for Interior Designers. This Rule provides for enforcement and education for those engaged in the practice of Interior Design. Formerly, the statute provided enforcement only against those who used the term *interior design* or *interior designer*. This statute provides that those

who actually practice interior design as defined in the statute must be registered with the board prior to engaging in that practice. Further, the statute and the subsequent Rules provide clarification and procedures for continuing education, which is required for all those registered.

The Practice Act and subsequently these rules complying with that Act were the subject of numerous town hall meetings throughout the state. Numerous designers, educators and students were provided an opportunity to contribute to this statute. Those suggestions were incorporated into the Act. Further, the State Fire Marshal supported these changes, and information was received from architects' and contractors=groups prior to passage of the act. Finally, this Act and subsequent rules are similar to practice acts passed in other states.

**Title 46**  
**PROFESSIONAL AND OCCUPATIONAL**  
**STANDARDS**

**Part XLIII. Interior Designers**

**Chapter 1. Composition and Operation of the Board**

**§104. Elections**

A. The board shall select annually from among its members a chairman, vice-chairman, and secretary and treasurer. The election of officers will be held each year at the last meeting scheduled before the beginning of the fiscal year on July 1.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3173.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1073 (November 1991), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 30:1011 (May 2004).

**Chapter 3. Officers of the Board and Their Duties**

**§305. Secretary**

A. The secretary shall be an administrative officer of the board. He shall act as its recording and corresponding secretary and may have custody of and shall:

1. safeguard and keep in good order all property and records of the board which the chairman deems necessary and appropriate;
2. cause written minutes of every meeting of the board to be kept in a book of minutes;
3. keep its seal and affix it to such instruments as require it; and
4. sign all instruments and matters that require attest and approval of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Interior Designers, LR 11:339, (April 1985), amended by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1074 (November 1991), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 30:1011 (May 2004).

**§306. Treasurer**

A. The treasurer shall act as treasurer and:

1. receive and deposit all funds to the credit of the Interior Design Fund;
2. attest all itemized vouchers approved by the chairman for payment of expenses of the board;

3. make such reports to the governor and legislature as provided for by law or as requested by same; and

4. keep the records and books of account of the board's financial affairs; and

5. any other duties as directed by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174.

HISTORICAL NOTE: Promulgated by Office of the Governor, Board of Examiners of Interior Designers, LR 30:1011 (May 2004).

**Chapter 5. Fees and Charges**

**§501. Fees and Charges**

A. All fees and charges except for the annual renewal fee must be made be cashier's check or money order. The annual renewal fee may be paid by business or personal check, unless required otherwise by the board. The following fees and charges have been established.

Licensing	\$150
Annual Renewal Fee	\$100
Restoration of Expired License or Reactivation of Expired License	\$150
Replacing Lost Certificate	\$ 25
Restoration of Revoked or Suspended License	\$150
Failure to Renew License within the Time Limit Set by the Board	\$ 50

B. The fees and charges may be amended by the board in accordance with the Act and Rules of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3182 and R.S. 37:3174.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Interior Designers, LR 11:339 (April 1985), amended by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1075 (November 1991), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 30:1011 (May 2004).

**Chapter 7. Issuance and Reinstatement of Certificates of Registration**

**§701. Issuance**

A. Certificates of registration issued by the board shall run to and include December 31 of the calendar year following their issue. The initial registration fee payable by cashier's check or money order of \$150 should be submitted with the application to the board. Certificates must be renewed annually for the following calendar year, by the payment of a fee of \$100, provided that any approved applicant who has paid the initial registration fee of the preceding calendar year shall not be required to pay the renewal fee until December 31 of the next succeeding calendar year. Certificates not renewed by December 31 shall become invalid, except as otherwise provided.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174 and R.S. 37:3179.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Interior Designers, LR 11:340 (April 1985), amended by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1075 (November 1991), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 30:1011 (May 2004).

**§703. Reinstatement**

A. When a certificate has become invalid through failure to renew by December 31, it may be reinstated by the board at any time during the remainder of the following calendar year on payment of the renewal fee, plus a late penalty restoration fee of \$150. In case of failure to reinstate within

one year from the date of expiration, the certificate cannot be renewed or reissued except by a new application approved by the board and payment of the registration fee.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174 and R.S. 37:3179.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Interior Designers, LR 11:340 (April 1985), amended by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1075 (November 1991), LR 20:864 (August 1994), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 30:1011 (May 2004).

#### **§704. Restoration of Expired Certificates**

A. A certificate expires on December 31 of each year. If the licensee fails to have the certificate reinstated within one year of the expiration date of the certificate, then the applicant may petition the board to have his certificate restored if he files the said petition within three years of the expiration of the certificate. If the board approves the restoration of the certificate, then the applicant must pay the sum of \$150 to the board for the restoration and file a new application with the board.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174 and R.S. 37:3179.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1075 (November 1991), amended LR 20:864 (August 1994), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 30:1012 (May 2004).

#### **§705. Lost or Destroyed Certificates**

A. Lost or destroyed certificates may be replaced on presentation of a sworn statement giving the circumstances surrounding the loss or destruction thereof, together with a fee of \$25. Such replaced certificate shall be marked "duplicate."

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Interior Designers, LR 11:340 (April 1985), amended by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1075 (November 1991), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 30:1012 (May 2004).

### **Chapter 8. Continuing Education**

#### **§802. Continuing Education Units**

A. ...

B. The board will only approve continuing education units which build upon the basic knowledge of Interior Design and which also include topics which concentrate on the subjects of health, safety and welfare of both licensees and their clients and customers.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3179.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1075 (November 1991), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 30:1012 (May 2004).

#### **§803. Verified Credit**

A. - C.1. ...

2. the program must build upon the basic knowledge of interior design and must concentrate on or address the

subjects of health, safety, and welfare of both licensees and their clients and customers;

C.3. - G ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3179.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1076 (November 1991), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 30:1012 (May 2004).

#### **§804. Approved Programs**

A. The board by majority vote shall appoint a Continuing Education Advisory Committee which shall solicit, examine, review and recommend for approval by the board all continuing education courses which may be used by registrants and licensees to meet the requirements of this Chapter and Section 3179 of Title 37 of the Louisiana Revised Statutes.

B. The membership of the Continuing Education Advisory Committee shall be composed as follows:

1. at least one member of the board;
2. one member appointed from a list of candidates provided by ASID;
3. one member appointed from a list of candidates provided by IIDA;
4. one correspondence member from each of the eight Louisiana Electoral Districts;
5. one member representing at-large Designers (non-affiliated);
6. any other member approved by the board.

C. The Continuing Education Advisory Committee shall approve only continuing education that builds upon the basic knowledge of interior design and which also concentrates on or addresses the subjects of health, safety, and welfare of both licensees and their clients and customers and shall recommend guidelines for continuing education.

D. Any application for approval of any program must contain the following information:

1. information on the course sponsor, including name, address and telephone number;
2. description of the course, including a detailed description of subject matter and course offering. The following information is required: Length of instructional period, instruction format, lecture, seminar conference, workshop, or home study; presentation method, such as electronic, visuals, or printed materials. The description should also state how the course relates to public health, safety and welfare;
3. course instructors, leaders and/or participants. Names, addresses and telephone numbers of instructors or leaders or participants in the program must be given. Participants will include any member of any panel, those who make a presentation by electronic means, or any other person who leads or contributes to the course content. Information on these should include education and professional credentials for each person. Professional references will be requested;
4. time, place and cost. The information must include the date, time and location of course offerings, as well as attendance fees and cost of course materials;
5. verification of course completion. The information must include the sponsor's method for verifying attendance,

participation and achievement of program learning objectives;

6. course information dissemination. The information must include the method of informing those interested of program offering.

#### E. Application Fees

1. All applicants for approval of a program for continuing education credit by the board must pay the following costs, which represent the direct cost to the board for committee review and expenses.

a. Programs already approved by professional organizations including ASID, IIDA, IDEC, IFMA, BOMA, NFPA, SBC AIA and the IDCECC \$10

b. Individual presentations on a one-time annual basis C\$25

c. National Commercial Seminars presented by for profit organizations C\$50

2. Review fees are payable to the board and are non-refundable.

3. The board may waive fees for programs solicited by the board.

#### F. Committee Meetings

a. The CEU Advisory Committee may meet by telephone conference calls or by other electronic means.

b. Corresponding members will receive information regarding applications for CEU approval by facsimile and may respond via facsimile.

c. All matters considered by the CEU Advisory Committee are subject to final approval by the board at its regularly scheduled meetings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3179.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1076 (November 1991), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 30:1012 (May 2004).

### Chapter 9. Examination and Registration

#### §902. Licensing without Examination

A.1. All persons registered to use the title "interior designer," "registered interior designer" or "licensed interior designer" on January 1, 2000, shall be qualified for interior design registration under the provisions of this Chapter, provided that their license was not inactive, expired, suspended or revoked.

2. Any person licensed on January 1, 2000, who has not passed the required examination by January 1, 2003, must show completion of one of the following:

a. passage of the building and barrier free code section of the NCIDQ examination; or

b. 15 hours of board-approved continuing education classes relating to building and barrier free code regulation prior to having the certificate of registration issued under this Subsection renewed. Any hour earned for continuing education pursuant to this Section shall be in addition to any other continuing education required by this Part.

3. However, any person who has within the three years prior to January 1, 2000, completed 15 hours of

approved continuing education on building and barrier free code regulation shall not be required to complete the 15 hours of continuing education related to building and barrier free code regulation as provided for herein.

4. Prior to January 1, 2003, or until he completes the requirements of this Section, the interior designer may retain the title "licensed interior designer" and retain all rights and duties granted to registered interior designers pursuant to this act, conditioned upon the licensed interior designer abiding by all requirements of this part.

B. On January 1, 2000, all persons who are 65 years old and who are authorized to use the term "licensed interior designer" on the effective date of the act shall not be required to establish proof of passage of the required examination. However, such persons shall comply with all other requirements of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with RS. 37:3174 and 37:3178.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners of Interior Designers, LR 30:1013 (May 2004).

#### §903. Application Procedure

A. Application must be made to the board on application forms obtained from the State Board of Examiners of Interior Designers and required fees filed. Application forms may be obtained by calling (225) 298-1283 or writing to State Board of Examiners of Interior Designers, 2900 Westfork Drive, Suite 200, Baton Rouge, LA 70827.

B. The application must request the following information:

1. name;
2. business address and telephone;
3. residential address and telephone;
4. affiliations, if any;
5. educational background;
6. employment background;
7. specialties, if recognized;
8. e-mail address;
9. volunteer status for board committees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174 and R.S. 37:3179.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Interior Designers, LR 11:340 (April 1985), amended by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1077 (November 1991), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 30:1013 (May 2004).

#### §909. Seal and Display of License Number

A. An applicant for licensing who complies with all requirements established therefor, including the successful completion of an examination where applicable, shall be issued a certificate by the board to evidence such licensing. Each holder of a license shall secure a seal of such design as is prescribed in the rules of the board. All drawings, renderings, or specifications prepared by the holder or under his supervision shall be imprinted with his seal.

B. The seal to be used is identified in the following illustration.





AUTHORITY NOTE: Promulgated in accordance with R.S. 3179.2.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Interior Designers, LR 11:340 (April 1985), amended by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1077 (November 1991), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 30:1013 (May 2004).

#### §911. Inactive Status

A. ...

B. An applicant who wishes to have his license reactivated must provide proof to the Board that he has completed board-approved continuing education units of not less than five hours approved by the board for each year the license was inactive, to be cumulated at the time the applicant applies to have his license reactivated.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3179.1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1077 (November 1991), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 30:1014 (May 2004).

#### Chapter 10. Use of Term "Interior Designer"

##### §1001. Limitation of Use of Term

A. Only those who are licensed as a licensed interior designer or registered interior designer by the board may use the appellation interior designer, licensed interior designer or registered interior designer or the plural thereof in advertising or in business usage when referring to themselves or services to be rendered.

B. Definitions

*Licensed Interior Designer*—A person who is licensed pursuant to the provisions of this chapter.

*Registered Interior Designer*—A licensed interior designer who has taken and passed the examination provided by the National Council for Interior Design Qualifications (NCIDQ).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3171 and R.S. 37:3176.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1078 (November 1991), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 30:1014 (May 2004).

##### §1003. Firm Practice

A. Nothing shall prevent a licensed or registered interior designer licensed pursuant to the statute or regulations from associating with one or more interior designers, architects,

professional engineers, landscape architects, surveyors, or other persons in a partnership, joint venture, or corporation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3180.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1078 (November 1991), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 30:1014 (May 2004).

##### §1005. Use of Term by Business

A. A firm shall be permitted to use in its title the term licensed interior designer or registered interior designer and to be so identified on any sign, card, stationery, device, or other means of identification if at least one partner, director, officer, or other supervisory agent of such firm is licensed as an interior designer in this state. A firm shall not be required to include the names of all partners, directors, or officers in its title.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3180.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1078 (November 1991), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 30:1014 (May 2004).

#### Chapter 11. Revocation or Suspension of Certificates of Registration

##### §1101. Authority of Board to Suspend or Revoke

A. - A.2. ...

3. that an applicant for a license has represented himself to be a licensed interior designer or a registered interior designer prior to the time of issuance of a license to him except as authorized by the Act;

4. - 6. ...

7. that the holder of the license has been guilty of affixing his seal or stamp or name to any specification, drawing, or other related document which was not prepared by him or under his responsible supervision and control, or permitting his seal, stamp, or name to be affixed to any such document;

8. that the holder of a license has been guilty of affixing his seal or stamp or name to any plan, specification, drawing or other document which depicts work which he is not competent or licensed to perform;

9. that the holder of the license has been convicted of a felony, in which case the record of conviction is conclusive evidence of such conviction;

10. that the holder of the license has been guilty of willfully misleading or defrauding any person employing him as an interior designer;

11. that the holder of the license has been guilty of willfully violating the provisions of the Act or any lawful rule or regulation adopted by the board pursuant to law;

12. that the holder of the license has been guilty of attempting to obtain, obtaining, or renewing, by bribery, by fraudulent misrepresentation, or through an error of the board, a license to use the title licensed interior designer;

13. that the holder of the license has been guilty of having a license to practice interior design, or a license to use the title licensed interior designer or registered interior designer, revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another jurisdiction for any act which would constitute a violation of this part of this Chapter;

14. that the holder of the license has been convicted or found guilty of a crime in any jurisdiction which directly relates to the provision of interior design services or to the ability to provide interior design services. A plea of nolo contendere shall create a rebuttable presumption of guilt to the underlying criminal charge. However, the board shall allow the person being disciplined to present any evidence relevant to the underlying charge and the circumstances surrounding such plea;

15. that the holder of the license has been guilty of false, deceptive, or misleading advertising;

16. that the holder of the license has been guilty of aiding, assisting, procuring, or advising any unlicensed person to use the title licensed interior designer or registered interior designer contrary to this Act or to a rule of the board;

17. that the holder of the license has been guilty of failing to perform any statutory or legal obligation placed upon an interior designer;

18.a. that the holder of the license has been guilty of:

i. making or filing a report which the licensee knows to be false;

ii. intentionally or negligently failing to file a report or record required by state or federal law; or

iii. willfully impeding or obstructing such filing or inducing another person to do so;

b. such reports or records shall include only those which are signed in the capacity as an interior designer.

19. that the holder of the license has been guilty of making deceptive, untrue, or fraudulent representations in the provision of interior design services;

20. that the holder of the license has been guilty of accepting and performing professional responsibilities which the licensee knows or has reason to know that he is not competent or licensed to perform;

21. that the holder of the license has been guilty of rendering or offering to render architectural services.

B. Revocation or nonrenewal of the registration of the registered interior designer is recommended for violations of Paragraphs 1, 2, 6, 9, 10, 11, 12, and 13.

C. Revocation or nonrenewal of the registration of the registered interior designer is recommended if there is a finding that the registrant has been suspended at least twice prior to the hearing on the incident regarding the current complaint.

D. Revocation or nonrenewal of the registration of the registered interior designer is recommended if there is a finding that the registrant has violated any requirements relating to continuing education units.

E. A reprimand or suspension of 30 days to one year is recommended for violation of any Paragraphs 3, 4, 5, 7, 14, 15, 16, 17, 18, 19, 20.

F. Suspension is recommended if the registrant has received three reprimands.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3179 and R.S. 37:3181.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Interior Designers, LR 11:340 (April 1985), amended by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1078 (November 1991), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 30:1014 (May 2004).

### §1103. Procedure for Suspension or Revocation

A. ...

B. If a formal complaint is filed with the board, that complaint shall be referred to the Disciplinary Committee, whose job shall be to investigate the complaint. If warranted by the investigation, the Disciplinary Committee shall duly notify the alleged violator in writing of the complaint and ask the alleged violator for a response to the complaint.

C. If the Disciplinary Committee by a majority vote determines that there has been no violation of the statutes and regulations regulating registered or licensed interior designers, then a report of that shall be made to the board.

D. If the Disciplinary Committee determines that the registrant has corrected the alleged violation, and the complainant has accepted the correction without further hearing, it shall make a report of that to the entire board.

E. If the Disciplinary Committee determines that there is a violation alleged, and that the registrant has not corrected the alleged violation, then it shall make a referral to the board of this fact and ask that the matter be referred for a hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174, R.S. 37:3179 and R.S. 37:3181.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Interior Designers, LR 11:340 (April 1985), amended by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1079 (November 1991), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 30:1015 (May 2004).

### §1104. Hearings

A. If, after following the procedure in §1103, the board determine that a hearing is warranted, the following procedure should be followed.

B. Proceedings to revoke, rescind or suspend the certificate of registration of an interior designer shall commence by any person filing a sworn affidavit with the board against the interior designer. A time and place for the hearing of the charges shall be fixed by the board. The board, upon its own motion, may investigate the actions of any interior designer and file a complaint against him.

C. A copy of the complaint shall be sent by the board to the interior designer against whom a complaint has been filed at his last known address by registered or certified mail at least 20 days prior to the hearing together with a notice of the time and place of the meeting of the board at which the complaint shall be heard.

D. At the hearing the interior designer against whom a complaint has been filed shall have the right to cross-examine witnesses against him, to produce witnesses in his defense, and to appear personally or by counsel.

E. No action shall be taken to rescind, revoke, or suspend the certificate of registration of any interior designer unless a quorum of the board is present at the hearing and then only by an affirmative vote of at least four of the members of the board present.

F. If the board determines upon the suspension of the certificate of registration of any interior designer, it shall fix the duration of the period of the suspension.

G. If the board revokes, rescinds, or suspends the certificate of registration of any interior designer, the secretary of the board shall give written notice of its action by registered or certified mail to the person against whom the complaint was filed at the last known address.

H. The board may require the production of books, papers, or other documents and may issue subpoenas to compel the attendance of witnesses to testify and to produce any relevant books, papers, or other documents in their possession before the board in any proceeding concerning any violations of the laws regulating registered interior designers or the practice of interior design. The subpoenas shall be served by the sheriff for the parish where the witness resides or may be found. If any person refuses to obey any subpoena so issued or refuses to testify or to produce any books, papers, or other documents required to be produced, the board may present its petition to the district court of the parish in which that person was served with the subpoena setting forth the facts. The court shall then issue a rule to that person requiring him to obey the subpoena or to show cause why he fails to obey it. Unless that person shall show sufficient cause for failing to obey the subpoena, the court shall direct him to obey the subpoena and, upon his refusal to comply, he shall be adjudged in contempt of court and punished therefor, as the court may direct.

I. Any licensed or registered interior designer who has been found guilty by the board of the charges filed against him and whose certificate of registration has been revoked, rescinded, or suspended, shall have the right to appeal to the district court of the parish in which the hearing was held. The appeal shall be governed by the Administrative Procedure Act, R.S. 49:950, et seq.

J. The board shall have the power to issue a new certificate of registration, change a revocation to a suspension, or shorten the period of suspension, upon satisfactory evidence that proper reasons for such action exist, presented by any person whose certificate of registration as an interior designer has been revoked, rescinded or suspended. Any person whose certificate of registration has been suspended shall have his certificate of registration automatically reinstated by the board at the end of his period of suspension upon payment of the renewal fee. No delinquent fee shall be charged for reinstatement of certificate of registration under the provisions of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:3174, R.S. 37:3179 and R. S. 37:3181.

HISTORICAL NOTE: Promulgated the Office of the Governor, Board of Examiners of Interior Designers, LR 30:1015 (May 2004).

#### **§1106. Fine for Restoration of Revoked or Suspended**

##### **License**

A. The board may require a licensee who has had his license revoked or suspended pursuant to the provisions of this Chapter to pay a fine of up to \$150 to have his license restored to him.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3179 and R.S. 37:3182.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1079 (November 1991), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 30:1016 (May 2004).

#### **§1108. Disciplinary Committee**

A. There is hereby created a disciplinary committee to review all complaints filed with the board.

B. The board shall appoint the members of the disciplinary committee.

C. The disciplinary committee shall be composed of the following members:

1. the chairman of the board or a representative of same;
2. one representative of ASID;
3. one representative of IIDA;
4. one representative of IDEC;
5. one unaffiliated registered interior designer.

D. All complaints filed with the board shall be reviewed by the Disciplinary Committee before submission to the board.

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:3179.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners of Interior Designers, LR 30:1016 (May 2004).

#### **§1109. Cease and Desist Orders and Injunctive Relief**

A. In addition to or in lieu of the administrative sanctions provided in this Chapter the board is empowered to issue an order to any person or firm engaged in any activity, conduct, or practice constituting a violation of any provision of this chapter directing such person or firm to cease and desist from such activity, conduct, or practice. Such order shall be issued in the name of the state of Louisiana under the official seal of the board.

B. The board shall issue a cease and desist order against anyone who is not registered and who is found to be practicing interior design or using the term "interior designer," "registered interior designer," or "licensed interior designer."

C. The alleged violator shall be served with the cease and desist order by certified mail. If within 10 days the alleged violator is continuing the offending activity, the board may file a complaint with the appropriate district court requesting that the court enjoin the offending activity.

D. Upon a proper showing by the board that such person or firm has engaged in any activity, conduct, or other activity proscribed by this Chapter, the court shall issue a temporary restraining order restraining the person or firm from engaging in unlawful activity, conduct, or practices pending the hearing on a preliminary injunction, and in due course a permanent injunction shall issue after hearing commanding the cessation of the unlawful activity, conduct, or practices complained of, all without the necessity of the board having to give bond as usually required in such cases. A temporary restraining order, preliminary injunction, or permanent injunction issued hereunder shall not be subject to being released upon bond.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3185.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners of Interior Designers, LR 30:1016 (May 2004).

Anna E. Dow  
Attorney

0405#039

**RULE**

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

Penalty Guidelines (LAC 35:I.1797)

The Louisiana State Racing Commission has amended LAC 35:I.1797 "Penalty Guidelines" as follows.

**Title 35**

**HORSE RACING**

**Part I. General Provisions**

**Chapter 17. Corrupt and Prohibited Practices**

**§1797. Penalty Guidelines**

A. - B3. ...

4. Classes IV and V: the trainer may be suspended for a period not more than 60 days and a fine of not less than \$500 nor more than \$1,500, or both, depending on the severity and number of violations occurring within a 12-month period. The purse may be redistributed on referral to the commission at its discretion.

a. On ordinary violation(s) of Classes IV or V within a 12-month period the trainer shall be fined \$500 on the first violation; \$1,000 on the second violation; \$1,000 on the third and subsequent violations and referred to the commission.

b. On extraordinary violation(s) of Classes IV or V in a manner that might affect the performance of a horse within a 12-month period the trainer shall be fined \$1,000 on the first offense; \$1,000 and referred to the commission for further action on second and subsequent violations.

c. On gross violation(s) of Classes IV or V in a manner that intends to affect the performance of a horse the trainer shall be fined not less than \$1,000 and referred to the commission for further action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission LR 19:613 (May 1993), amended by the Office of the Governor, Division of Administration, Racing Commission LR 28:1014 (May 2002), LR 30:1017 (May 2004).

Charles A. Gardiner III  
Executive Director

0405#021

**RULE**

**Office of the Governor  
Patient's Compensation Fund Oversight Board**

Enrollment and Surcharges  
(LAC 37:III.505, 511, 515, and 715)

The Patient's Compensation Fund Oversight Board, under authority of the Louisiana Medical Malpractice Act, R.S. 40:1299.41 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., has amended LAC 37:III.505, 511, 515, and 715 as follows, to clarify the requirements for insurance policies acceptable as evidence of financial responsibility, to clarify that certain entities which are deemed to be enrolled and qualified with

the fund without the payment of an additional surcharge must maintain financial responsibility, to clarify the contents of a certificate of enrollment and to extend the time to evidence underlying coverage and pay surcharges for PCF tail coverage for continuous uninterrupted PCF coverage.

**Title 37**

**INSURANCE**

**Part III. Patient's Compensation Fund Oversight Board  
Chapter 5. Enrollment with the Fund**

**§505. Financial Responsibility: Insurance**

A. ...

B. To be acceptable as evidence of financial responsibility pursuant to §505, an insurance policy:

1. - 4. ...

5. shall not be subject to a retention or deductible payable by the insured health care provider, with respect to liability, costs of defense or claim adjustment expenses, in excess of \$25,000, provided that an insurance policy provision which requires reimbursement of the insurer by the insured of indemnification and/or expenses and which provides that the insurer remains directly and primarily responsible to the patient for the amount thereof shall not be considered a retention and shall, in that regard, be deemed to satisfy the financial responsibility requirements of §505; and

B.6. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44(D)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 18:170 (February 1992), amended LR 21:394 (April 1995), LR 23:68 (January 1997), LR 24:333 (February 1998), LR 30:1017 (May 2004).

**§511. Coverage: Partnerships and Professional Corporations**

A. When, and during the period that, each shareholder, partner, member, agent, officer, or employee of a corporation, partnership, limited liability partnership, or limited liability company, who is eligible for qualification as a health care provider under the act, and who is providing health care on behalf of such corporation, partnership, or limited liability company, is enrolled with the fund as a health care provider, having paid the applicable surcharges due the fund and demonstrated and maintained financial responsibility in accordance with the standards prescribed by §§503-511 for enrollment of such individual, such corporation, partnership, limited liability partnership, or limited liability company shall, without the payment of an additional surcharge, be deemed concurrently qualified and enrolled as a health care provider with the fund when, and during the period that such corporation, partnership, limited liability partnership, or limited liability company demonstrates and maintains financial responsibility in accordance with the standards prescribed by §§503-511.

B. The corporation, partnership, limited liability partnership, or limited liability company shall furnish to the board, concurrently with its enrollment and renewal application, the name(s) of each shareholder, partner, member, agent, officer, or employee who is eligible for qualification and enrollment with the fund as a health care provider and evidence of its financial responsibility in accordance with the standards prescribed by §§503-511.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44D(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 18:173 (February 1992), amended LR 30:1017 (May 2004).

**§515. Certification of Enrollment**

A. Upon receipt and approval of a completed application (including evidence of financial responsibility pursuant to §505, §507 or §509) and payment of the applicable surcharge by or on behalf of the applicant health care provider, the executive director shall issue and deliver to the health care provider a certificate of enrollment with the fund, identifying the health care provider and specifying the effective date and term of such enrollment and the scope of the fund's coverage for that health care provider.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44D(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 18:173 (February 1992), amended LR 23:69 (January 1997), LR 30:1018 (May 2004).

**Chapter 7. Surcharges**

**§715. Amount of Surcharges; Form of Coverage; Conversions**

A. - B. ...

C.1. When a health care provider who had previously purchased claims-made coverage from the fund elects to purchase occurrence coverage from or discontinue enrollment in the fund, he shall not have coverage afforded by the fund for any claims arising from acts or omissions occurring during the fund's claims-made coverage but asserted after the termination of the claims-made coverage unless he evidences financial responsibility for those claims either by purchasing an extended reporting endorsement or posting a deposit with the board pursuant to §507 and pays, on or before 45 days following the termination of the claims-made coverage, the surcharge applicable to fund tail coverage for the corresponding claims-made period(s).

2. When a health care provider who had previously purchased claims-made coverage from the fund elects to purchase self-insured coverage from the fund, he shall not have coverage afforded for any claims arising from acts or omissions occurring during the fund's claims-made coverage but asserted after the termination of the claims-made coverage, unless he evidences financial responsibility for those claims either by purchasing an extended reporting endorsement or posting a second deposit with the board pursuant to §507 and pays, on or before 45 days following the termination of the claims-made coverage, the surcharge applicable to fund tail coverage for the corresponding claims-made period(s).

C.3. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44(D)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 23:69 (January 1997), amended LR 29:347 (March 2003), LR 30:1018 (May 2004).

Lorraine LeBlanc  
Executive Director

0405#012

**RULE**

**Office of the Governor  
Used Motor Vehicle and Parts Commission**

Off-Site Displays and Complaints  
(LAC 46:V.3606, 3607, and 4501)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with Revised Statutes Title 32, Chapter 4A and 4B, the Office of the Governor, Used Motor Vehicle and Parts Commission, notice is hereby given that the Used Motor Vehicle and Parts Commission, has adopted rules and regulations governing Off-Site Displays in accordance with R.S. 32:772 F(8).

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part V. Automotive Industry**

**Subpart 2. Used Motor Vehicle and Parts Commission  
Chapter 36. Motor Vehicle Trade Shows and Off-Site Displays**

**§3606. Off-Site Displays C Marine Products**

A. The commission must approve all off-site displays of new marine products. A request for an off-site display must be received and approved by the commission seven days prior to the commencement of the display.

B. The location of any off-site display must be within the dealer's defined area of responsibility or within his manufacturer's contracted agreement for the make and model to be displayed.

C. The licensee participating in an off-site display of his product is not required to contact all dealers within a 50 mile radius.

D. Each off-site display of marine products is limited to:  
1. one marine dealer;  
2. nine days and four displays a year. An off-site display will be permitted at the same location every six months.

E. The number of vehicles at any off-site display of marine products will be left to the discretion of the commission, with a maximum of 20 vehicles per licensee, per display.

F. The presence of any sales personnel, business cards, brochures, pricing sheets and other points of sales devices will be allowed to answer consumer questions. However, marine products cannot be delivered from that off-site display location.

G. Any licensee participating in an off-site display without the approval of the commission will be in violation of R.S. 32:775(A)(7)(d) and will result in a minimum penalty of \$500 per vehicle, per display for the first offense.

H. A licensee must furnish a liability insurance binder to the owner of the off-site property. The same liability binder with the off-site property and owner listed must be furnished to the commission with the Off-Site Display Form.

I. This policy is separate from the rules and regulations pertaining to trade shows.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:772 (E).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 30:1018 (May 2004).

**§3607. Off-Site Displays C Motorcycles, ATV's and RV's**

A. The commission must approve all off-site displays of new motorcycles, new ATV's, and new RV's. A request or an off-site display must be received and approved by the commission seven days prior to the commencement of the display.

B. The location of any display must be within the dealer's defined area of responsibility for the make and model to be displayed.

C. Each off-site display is limited to 30 days. However, there will not be a limit on the number of off-site displays allowed per year, per licensee.

D. The number of vehicles at any off-site display will be left to the discretion of the commission, with a maximum of six vehicles per licensee, per display.

E. The presence of any sales personnel, business cards, brochures, pricing sheets, or any other points of sale device will not be allowed and will constitute a violation by the dealer of the laws of the rules and regulations of the commission. A 2' x 3' sign indicating the dealership name, address and telephone number is allowed.

F. Any licensee participating in an off-site display without the approval of the commission will be in violation of R.S. 32:775(A)(7)(d) and will result in a minimum penalty of \$500 per vehicle, per display for the first offense.

G. This policy is separate from the rules and regulations pertaining to trade shows.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:772 (E).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 30:1019 (May 2004).

**Chapter 45. Complaints**

**§4501. Complaints**

A. All forms of complaints made to the commission must be made on the complaint form provided by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:776(A)(3).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1065 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15:260 (April 1989), amended by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 30:1019 (May 2004).

John M. Torrance  
Executive Director

0405#045

**RULE**

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

Birth Defects Surveillance System  
(LAC 48:V.Chapters 161 and 163)

In accordance with the applicable provision of the Administrative Procedure Act R.S. 49:950 et seq. and the Birth Defects Surveillance System R.S. 40.31.41 through 31.48 et seq., notice is hereby given that the Department of

Health and Hospitals, Office of Public Health has adopted procedures for the surveillance of birth defects for all children under age 3, for provision of information on appropriate follow-up services to families of children identified as having birth defects, and for protection of the confidentiality of information about children who become part of the birth defects registry as well as the privacy of these individuals and their families.

**Title 48**

**PUBLIC HEALTH C GENERAL**

**Part V. Public Health Services**

**Subpart 55. Birth Defects Surveillance System**

**Chapter 161. General Provisions**

**§16101. Definitions**

*Advisory Board* Cthe nine-member advisory board of the program.

*Birth Defect* Can abnormality of structure, function or metabolism that develops during prenatal, perinatal or early postnatal life that is diagnosed before a child reaches 3 years of age.

*Case Finding* Cthe process used to identify potential birth defects cases for inclusion into the central registry or central database of the Louisiana Birth Defects Monitoring Network.

*CSHSC* Cthe Children's Special Health Services Program within the Office of Public Health.

*Confidential Information* Cinformation collected through the Louisiana Birth Defects Monitoring Network that is private and protected under state and federal laws.

*Director* Cthe program director for the Louisiana Birth Defects Monitoring Network.

*Department* Cthe Department of Health and Hospitals.

*LBDMNC* Cthe Louisiana Birth Defects Monitoring Network, which the office will establish to collect information about children with birth defects. The LBDMN is established to carry out the directives of the Louisiana Birth Defects Surveillance System, which was created under Louisiana Revised Statutes 40.31.41-31.48.

*Office* Cthe Office of Public Health within the Department of Health and Hospitals.

*Registry* Cthe centralized database where data collected through the LBDMN is housed.

*Reporting Source* Cany physician, nurse or allied health professional, hospital, laboratory, and any other facility or agent directly or indirectly responsible for providing medical services to an individual affected by a birth defect.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40.31.48.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 30:1019 (May 2004).

**Chapter 163. Program Procedures**

**§16301. Procedures for Identification and Referral of Children with Birth Defects**

A. The program will include the following.

1. Reporting sources required to report pursuant to the rule shall allow personnel from the department or its contractors to abstract information from the mother's and infant's files on their demographic characteristics, family history of birth defects, and outcomes of that and other pregnancies by that mother, according to the case definition used in LBDMN.

2. The chief operating officer, administrator, manager, director, and/or person in charge of each reporting source shall appoint one staff member as a contact person for the LBDMN surveillance activities. That staff member should be responsible for coordinating scheduled visits by LBDMN staff to review logs, discharge indices, and other case-finding sources, and will be responsible for arranging medical records review visits and record management.

3. LBDMN staff and the contact individual at the reporting source shall establish a schedule of case-finding and record review visits. This schedule shall take into account the capabilities of each individual reporting source in responding to data/information requests, as well as the need for timely case-finding and reporting for the LBDMN.

4. Potential cases are obtained/abstracted through review of medical records, logs, indices, appointment rosters, and other records.

5. The original medical records and other materials provided by the reporting source shall not be removed from that facility. Copies and other data should be made in compliance with existing federal and state laws and regulations.

6. The office will require information from a reporting source to be collected on a birth defects reporting form. This may be an electronic or paper form, as determined by LBDMN procedures.

7. The office will maintain a centralized database to include information reported on the birth defects reporting form.

8. The office will notify parents of infants and children identified of available early intervention services in their community.

#### B. Implementation

1. All reporting sources must comply with Act 194 of 2001 and these rules by July 1, 2004.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40.31.48.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 30:1019 (May 2004).

### §16303. Reporting Requirements

A. The office shall determine the health care facilities and providers which shall be required to report all birth defects, the types of conditions or defects that shall be reported, the type of information that shall be contained in the confidential report and the method for making the report.

B. To ensure an accurate source of data necessary to investigate the incidence, prevalence, and trends of birth defects, a reporting source shall make available to the program staff, office staff, or authorized agent medical records or other information upon request that relates to the occurrence of a birth defect.

C. The department secretary may require, in lieu of active case finding, reporting sources identifying and diagnosing birth defects to report the birth defects to the program within 30 days of diagnosis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40.31.48.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 30:1020 (May 2004).

### §16305. Confidentiality

A. Except as specifically authorized by this Chapter, information furnished to a LBDMN employee or to an authorized agent of the office that relates to cases or suspected cases of a birth defect is confidential and may be used only for the purposes outlined in this Chapter.

B. Information relating to individual cases or individual suspected cases of birth defects is not public information and shall not be released or made public except as provided by this Chapter.

C. The LBDMN may release information:

1. for summary reporting purposes, if released without personal identifiers;

2. to medical personnel, appropriate state agencies, health authorities, regional directors, and public officers of parishes and municipalities as necessary to comply with this Chapter and board rules relating to the identification, monitoring, and referral of children with birth defects;

3. to appropriate federal agencies, as authorized by law and provided that the information contains no personal identifiers.

D. No reporting source shall be held civilly or criminally liable for conveying confidential information, except in a case of gross negligence or willful misconduct.

E. A board member, the secretary of the department, an employee of the LBDMN or office, or an authorized agent may not be examined in a civil, criminal, special, or other proceeding as to the existence or contents of pertinent records of or reports or information about a child identified or monitored for a birth defect without the consent of the child's parents, managing conservator, guardian, or legally authorized representative.

F. All employees or authorized agents of the LBDMN or office given access to medical or registry records shall agree, in writing, to maintain confidentiality of information about children with birth defects and to protect the privacy of individuals and families who become part of the LBDMN registry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40.31.48.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 30:1020 (May 2004).

### §16307. Access to Information from the Central Registry

A. The LBDMN or other authorized persons may conduct investigations of cases or suspected cases in the LBDMN registry.

B. Access to the central registry information is limited to LBDMN personnel. Other persons with a valid scientific research interest may be granted access to the information upon approval by program director, the board, and the Department's Institutional Review Board. These persons must satisfy any requirements stipulated by the board, and must receive Institutional Review Board permission to obtain the data.

C. All persons granted access to confidential information and data shall agree, in writing, to maintain confidentiality, and shall be subject to civil penalties and/or internal proceedings and penalties if confidentiality is violated.

Penalties may include denial of future access to confidential information.

D. The department and LBDMN shall maintain a listing of each person who is given access to confidential information in the LBDMN registry. The listing is public information and shall be made available to the public during the office's normal hours of operation. The listing shall include:

1. the name of the person authorizing access;
2. the name, title, and organizational affiliation of each person who is granted access;
3. the dates of access;
4. the specific information requested;
5. the specific purpose for which the information was used;
6. results of independent research.

E. Progress reports and reports of findings generated from approved studies shall be submitted to the LBDMN staff and board annually or at the conclusion of the project, if the duration is shorter than 12 months.

F. All persons granted access to LBDMN information and data shall certify the destruction of data at the conclusion of the project.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40.31.48.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 30:1020 (May 2004).

**§16309. Program Operation**

A. The office shall monitor reporting sources for compliance with all sections of this statute.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40.31.48.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 30:1021 (May 2004).

Frederick P. Cerise, M.D., M.P.H.  
Secretary

0405#050

**RULE**

**Department of Health and Hospitals  
Office of the Secretary  
Bureau of Health Services Financing**

Clinic Services

(LAC 50:XI.Chapters 1, 3, 17, 35, 51, and 69)

Editor's Note: The following Part has recently been compiled and is being promulgated for codification purposes.

The table below shows the compiled Rules used to create each Section.

Section Number	Rules
101	LR 9:130 (March 1983)
103	LR 9:13 (January 1983)
301	LR 22:109 (February 1996), amended LR 23:731 (June 1997)
1701	LR 4:210 (May 1978), amended LR 8:76 (February 1982), LR 22:107 (February 1996)
3501	LR 4:210 (May 1978)
5101	LR 13:183 (March 1987)
6901	LR 26:2300 (October 2000)

**Title 50  
PUBLIC HEALTHC MEDICAL ASSISTANCE**

**Part XI. Clinic Services**

**Subpart 1. Rehabilitation Clinics**

**Chapter 1. General Provisions**

**§101. Definitions**

*Less Care by Others*Cthe ability of the client to use a minimum of assistance to take care of personal needs.

*Rehabilitation*Ca program to prevent further impairment of physical deformity and malfunction, and enable significantly increased ability of the individual to require less care by others.

*Self-Care and Self-Help*Cthe ability of the individual to take care of personal needs, e.g., eating, dressing, ability to walk, talk, or use devices unassisted.

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 Service Financing, LR 30:1021 (May 2004).

**§103. Services**

A. Voice evaluation or voice therapy coverage is excluded from the Title XIX Medical Assistance Program. This includes instructions in use and hygiene of the voice as treatment for vocal cord nodules or hoarseness, and related conditions, unless it is serious enough to interfere with normal speech.

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 Service Financing, LR 30:1021 (May 2004).

**Chapter 3. Reimbursement**

**§301. Rehabilitation Rates**

A. The payment schedule for services rendered to Medicaid-eligible recipients in rehabilitation clinics shall be based on hourly rates as follows.

Procedure	Rate
Physical therapy	\$40
Occupational therapy	\$40
Speech therapy	\$30

B. Evaluations. Rehabilitation clinics shall be reimbursed for evaluations at the rate which was in effect for those services as of July 6, 1995.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Service Financing, LR 30:1021 (May 2004).

**Subpart 3. Mental Health Clinics**

**Chapter 17. Reimbursement**

**§1701. Service Reimbursement**

A. Mental health clinics are reimbursed for only one procedure per day per recipient. The following services are not reimbursable under the Medicaid program:

1. occupational therapy;
2. recreational therapy;
3. music therapy; and
4. art therapy.

B. Payment to public clinics shall be made for their services based on cost. Payment to private clinics shall be based on charges not to exceed a reasonable rate set by the



state. Public clinic cost data will be used as one of the determinants in forming a basis to establish rates for private clinics. Charge data will also be a factor in rate determination. The primary objectives of this method of payment are to ensure:

1. compliance with current laws and federal regulations; and

2. uniform method of payment on a statewide basis.

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 Service Financing, LR 30:1021 (May 2004).

### **Subpart 5. Family Planning**

#### **Chapter 35. Reimbursement**

##### **§3501. Public and Private Clinic Reimbursement**

A. Payment to public clinics shall be made for their services on the basis of cost. Payment to private clinics shall be based on charges not to exceed a reasonable rate set by the state. Public clinic cost data will be used as one of the determinants in forming a basis to establish rates for private clinics. Charge data will also be a factor in rate determination. The primary objectives of this method of payment are to ensure:

1. compliance with current laws and federal regulations; and

2. uniform method of payment on a statewide basis.

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 Service Financing, LR 30:1022 (May 2004).

### **Subpart 7. Prenatal Health Care**

#### **Chapter 51. General Provisions**

##### **§5101. Covered Services**

A. Prenatal health care services, provided by public prenatal health care clinics under the auspices of the Office of Preventive and Public Health Services shall be reimbursed under Title XIX as a covered service. Public health care service clinics enrolled in the Title XIX Medicaid Program shall have reimbursement limited to services each clinic is qualified to provide, and authorized under 42 CFR 440.90.

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 Service Financing, LR 30:1022 (May 2004).

### **Subpart 9. Hemodialysis Centers**

#### **Chapter 69. Reimbursement**

##### **§6901. Medicare Part B Claims**

A. The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing compares the Medicare payment to the Medicaid rate on file for the procedure codes on Medicare Part B claims for hemodialysis center services. If the Medicare payment exceeds the Medicaid rate, the claim is adjudicated as a paid claim with a zero payment. If the Medicaid rate exceeds the Medicare payment, the claim is reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment.

B. If the Medicaid payment is reduced or eliminated as a result of the Medicare/Medicaid payment comparison, the amount of 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.

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 Service Financing, LR 30:1022 (May 2004).

Frederick P. Cerise, M.D., M.P.H.  
Secretary

0405#010

### **RULE**

#### **Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing**

Durable Medical Equipment  
Medical Equipment and Supplies Delivery  
Termination of Reimbursement  
(LAC 50:XVII.305)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing hereby repeals LAC 50:XVII.305 under 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 the 2003-2004 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions including, but not limited to, pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law." This Rule is promulgated in accordance with the Administrative Procedure Act, R.S.49:950 et seq.

### **Title 50**

#### **PUBLIC HEALTHC MEDICAL ASSISTANCE**

##### **Part XVII. Durable Medical Equipment**

##### **Subpart 1. Durable Medical Equipment**

#### **Chapter 3. Reimbursement**

##### **§305. Delivery of Equipment and Supplies**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1027 (May 2004), repealed LR 30:1022 (May 2004).

Frederick P. Cerise, M.D., M.P.H.  
Secretary

0405#027

**RULE**

**Department of Health and Hospitals  
Office of the Secretary  
Bureau of Health Services Financing**

**Facility Need Review**C Bed Abeyance  
(LAC 48:I.12501)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends LAC 48:I.12501 as authorized by R.S. 40:2116. This Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the August 20, 1995 rule governing the Facility Need Review process to establish provisions governing the abeyance of nursing facility beds.

**Title 48**

**PUBLIC HEALTH**C **GENERAL**

**Part I. General Administration**

**Subpart 5. Health Planning**

**Chapter 125. Facility Need Review**

**§12501. Introduction**

A. - A.3. ...

B. Definitions

*Abeyance of Nursing Facility Beds*Ca situation in which a nursing facility, if it meets the requirements provided in Subsection G, may have all (but not only a portion) of its approved beds disenrolled from the Medicaid Program without causing the approval for the beds to be revoked after 120 days.

\*\*\*

*Legal Device*Cany legally binding instrument, such as a counter letter, made during the period a Notice of Abeyance is in effect, which would effect the transfer of disenrolled beds.

\*\*\*

*Notice of Abeyance*Ca written notice issued by the Department to a nursing facility stating that the criteria for placing all of the facility's approved beds in abeyance have been met.

\*\*\*

C. - F.4. ...

5. Except as provided in Subsection G, approvals shall be revoked when a facility's license is revoked, or not renewed, or denied, unless the facility obtains a license within 120 days from the date of such revocation, nonrenewal or denial.

6. Except as provided in Subsection G, approvals shall be revoked when a facility's provider agreement is terminated unless, within 120 days thereof, the facility enters into a new provider agreement.

7. Except as provided in Subsection G, 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, except as indicated, will automatically expire.

8. - 8.f. ...

G Placing Nursing Facility Beds in Abeyance and Removal from Abeyance

1. A nursing facility may have all of its approved beds disenrolled from the Medicaid Program and placed in abeyance if the department determines that the average annual occupancy in the service area where the facility is located is less than 85 percent. The department shall base this determination on the occupancy figures contained in the most recent LTC-2 report issued by the department prior to its receipt of a written request that the facility's beds be placed in abeyance in accordance with Paragraph G.2.

2. In order to request that a facility's beds be placed in abeyance, all persons or entities who are the holders of the approval, the nursing facility license, and the Medicaid provider agreement must submit to the department a written request signed by each such person or entity. The written request shall:

a. specify the date (which must be no later than 120 days after the receipt of the request by the department) on which the intended closure of the facility will occur; and

b. designate an individual (referred to hereinafter as the *designated contact person*) who shall serve as the contact between the party(ies) submitting the request and the department with respect to all matters involving the placing of the facility's beds in abeyance and their removal from abeyance:

i. include the mailing address and telephone number of that person;

ii. if the designated contact person is changed, a written notice thereof, signed by each person or entity who submitted the original request, shall be given to the department.

3. If the department determines that the requirements set forth in Paragraphs G.1 and 2 have been met, it shall issue a written Notice of Abeyance and forward it to the designated contact person within 30 calendar days after its receipt of the request for abeyance, subject to the provisions of Paragraph G.12. If the department determines that the requirements set forth in Paragraphs G.1 and 2 have not been met or that the issuance of a Notice of Abeyance would conflict with Paragraph G.12, it shall issue a written denial and forward it to the designated contact person within 30 calendar days after its receipt of the request.

4. All of a facility's approved beds must be disenrolled from the Medicaid Program within 120 days after the designated contact person's receipt of a Notice of Abeyance. An extension not to exceed 90 days may be granted if extenuating circumstances warrant said extension, such as safe transfer of patients. Otherwise, the Notice of Abeyance will automatically expire at the end of the 120-day period.

5. All of a facility's approved beds may be disenrolled before the designated contact person's receipt of a Notice of Abeyance, but if he or she does not receive a Notice of Abeyance within 120 days after the beds are disenrolled, the provisions of Paragraphs F.5-7 above will be applicable.

6. With respect to the facility's beds which are not designated to be re-enrolled as Medicaid nursing facility beds, the approval shall automatically expire after 120 days from receipt by the designated contact person of the department's Notice of Abeyance, unless the beds are re-enrolled by that date, thus rescinding the Notice of Abeyance.

7. A Notice of Abeyance shall remain in effect until the facility's beds are taken out of abeyance and are re-enrolled in Medicaid.

8. A facility's beds shall remain in abeyance until the average annual occupancy in the facility's service area, as shown in the most recent LTC-2 report, has exceeded 93 percent.

9. If the department determines that the average annual occupancy in the facility's service area, as shown in the most recent LTC-2 report, has exceeded 93 percent, it shall give written notice thereof to the designated contact person. The written notice shall specify the number of the facility's approved beds which must be taken out of abeyance and re-enrolled as Medicaid nursing facility beds. That number shall be determined by the department based upon the following criteria.

a. A nursing facility with 120 or fewer enrolled beds at the time of the request may return all of its enrolled beds from abeyance.

b. A nursing facility with 121 to 160 enrolled beds at the time of the request may return up to 80 percent of its beds from abeyance, but in no case shall it be required to return fewer than 120 beds.

c. A nursing facility with 161 or more enrolled beds at the time of the request may return up to 75 percent of its beds from abeyance, but in no case shall it be required to return fewer than 128 beds, nor shall it be allowed to return more than 175 beds.

d. A nursing facility may choose to return fewer beds from abeyance than are allowed by this Paragraph 9, and if it does so, the balance of the beds shall be disenrolled.

10. Within one year after the designated contact person's receipt of the written notice provided in Paragraph G.9 (or, in the case of new construction for a replacement facility, within 24 months after his or her receipt of such notice), the beds specified by the department must be taken out of abeyance and re-enrolled as Medicaid nursing facility beds. An extension of that time may be granted at the discretion of the department, when delays are caused by circumstances beyond the control of the applicant (e.g., acts of God). Inappropriate zoning is not a basis for extension. If the facility's beds which are designated to be re-enrolled as Medicaid nursing facility beds are not re-enrolled within the specified time period, the approval for those beds will automatically expire at the end of that period.

11. If, after giving the written notice provided in Paragraph G.9 to the designated contact person, the department determines that the requirement set forth in Paragraph G.8 is no longer met, the obligation to place the facility's beds back in service in accordance with Paragraph G.10 shall not be affected or negated.

12. If two or more requests to place beds in abeyance are pending at the same time, and the issuance of Notices of Abeyance for all of the pending requests would conflict with Paragraph G.12, priority shall be assigned to the requests as follows.

a. If two or more facilities are located in the same service area, a request with respect to a facility having a lower average annual occupancy rate shall have priority over a request with respect to a facility having a higher average annual occupancy rate, based on the most recent LTC-2 report issued by the department.

13. While a facility's beds are in abeyance, the ownership of the approval for those beds may not be transferred, and shall not be subject to any legal device.

14. All of a facility's beds which are taken out of abeyance and re-enrolled in the Medicaid Program must remain located together in one facility, which shall be either the original facility in which they were located before being placed in abeyance or another facility located in the same service area as the original facility.

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).

Frederick P. Cerise, M.D., M.P.H.  
Secretary

0405#029

## RULE

### Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Hospice  
(LAC 50:XV.3101 and 3301)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, amends LAC 50:XV.3101 and 3301 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

## Title 50

### PUBLIC HEALTHC MEDICAL ASSISTANCE

#### Part XV. Services for Special Populations

##### Subpart 3. Hospice

#### Chapter 31. General Provisions

##### §3101. Introduction

A. ...

B. The bureau terminates the pilot project for hospice care and establishes hospice as a covered service under the Medicaid State Plan.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1466 (June 2002), amended LR 30:1024 (May 2004).

#### Chapter 33. Provider Participation

##### §3301. Conditions for Participation

A. Statutory Compliance

1. Coverage of Medicaid hospice care shall be in accordance with:

a. 42 USC 1396d(o);

b. the Medicare Hospice Program guidelines as set forth in 42 CFR Part 418; and

c. §§4305-4308.2 of the Federal Centers for Medicare and Medicaid Services' *State Medicaid Manual*.

2. The *State Medicaid Manual* shall be the final authority in cases of conflicting rulings of the authorities listed in Subparagraphs a-c.

B. In order to participate, a hospice shall maintain compliance with the Medicare conditions of participation for hospices as set forth in 42 CFR Part 418.50-418.100 and shall have a valid Medicaid provider agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1466 (June 2002), amended LR 30:1024 (May 2004).

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.

Frederick P. Cerise, M.D., M.P.H.  
Secretary

0405#052

#### **RULE**

#### **Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing**

Medicaid Eligibility Application Date  
(LAC 50:III.503)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the LAC 50:III.503 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 provision 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 amends the definition of the application date contained in Section G of the July 20, 1996 Rule as follows.

#### **Title 50**

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

#### **Part III. Eligibility**

#### **Chapter 5. Application Processing**

#### **§503. Application Date**

A. The application date shall be the date the signed Medicaid application is received in the local Medicaid office or in an agency representative's office.

B. The date of receipt shall be protected as the certified date of application, as determined by Subsection A above.

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 Social Services, Office of the Secretary, Bureau of Health Services Financing, LR 30:1025 (May 2004).

Frederick P. Cerise, M.D., M.P.H.  
Secretary

0405#028

#### **RULE**

#### **Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing**

Mental Health Rehabilitation Services  
Reimbursement Reduction

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Rule under 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 the 2003-2004 General Appropriation Act which states: "The secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law." This Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

#### **Rule**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the established reimbursement rates for mental health rehabilitation services. The reimbursement is 99.2 percent of the rates (.8 percent reduction) in effect on September 30, 2003.

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.

Frederick P. Cerise, M.D., M.P.H.  
Secretary

0405#053

#### **RULE**

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

Portable X-Ray Services Portage Fees  
(LAC 50:XIX.4319 and 4335)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing hereby adopts LAC 50:XIX.4319 and 4335 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following provisions for portable X-ray portage fees.

**Title 50**  
**PUBLIC HEALTHC MEDICAL ASSISTANCE**  
**Part XIX. Other Services**  
**Subpart 3. Laboratory and X-Ray**  
**Chapter 43. Billing and Reimbursement**  
**Subchapter A. Billing**

**§4319. X-Ray Equipment Portage Billing**

A. Standard Health Care Financing Administration Common Procedure Codes (HCPCS) modifiers shall be used to bill for x-ray portage fees.

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 30:1026 (May 2004).

**Subchapter B. Reimbursement**

**§4335. X-Ray Portage**

A. Reimbursement shall be as follows for X-ray equipment portage fees when more than one person receives services.

Procedure	Rate
Transportation per patient, per trip, of portable x-ray equipment and personnel to home or nursing home.	\$17.50

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 30:1026 (May 2004).

Frederick P. Cerise, M.D., M.P.H.  
Secretary

0405#055

**RULE**

**Department of Health and Hospitals**  
**Office of the Secretary**  
**Bureau of Health Services Financing**

Professional Services Program C Anesthesia Services  
Reimbursement Reduction

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Rule 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 the 2003-2004 General Appropriation Act which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law." This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

**Rule**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the September 20, 1992 and April 20, 1997 Rules governing the billing and reimbursement of anesthesia services.

A. Billing. Physicians' Current Procedural Terminology (CPT) procedure codes in the anesthesia section of the CPT and the Health Care Common Procedure Coding System (HCPCS) modifiers shall be used to bill for anesthesia, including maternity-related and pediatric anesthesia.

B. Reimbursement. The reimbursement rates for anesthesia procedures are based on 100 percent of the 2003 Region 99 Medicare payable.

1. Reimbursement for maternity-related anesthesia services shall continue to be a flat fee except for the reimbursement for general anesthesia for a vaginal delivery. This service shall continue to be reimbursed according to base units and time units.

2. Reimbursement for conscious sedation. The CPT conscious sedation codes will be used to bill for services rendered to children up to the age of 13 years when a medically controlled state of depressed consciousness is the preferred method of sedation and the procedure can not be accomplished safely and/or effectively without it.

Reimbursement for conscious sedation shall be at a flat rate.

Frederick P. Cerise, M.D., M.P.H.  
Secretary

0405#051

**RULE**

**Department of Health and Hospitals**  
**Office of the Secretary**  
**Bureau of Health Services Financing**

Prosthetics (LAC 50:XVII.Chapters 1-31)

Editor's Note: The following Subpart has recently been compiled and is being promulgated for codification purposes.

The table below shows the compiled Rules used to create each Section.

Section Number	Rules
303	LR 26:2300 (October 2000)
305	LR 26:2792 (December 2000)
701	LR 30:251 (February 2004)
703	LR 30:251 (February 2004)
705	LR 24:1503 (August 1998), and LR 30:251 (February 2004)
707	LR 27:53 (January 2001), and LR 27:54 (January 2001)
731	LR 22:413 (April 1996), LR 22:370 (May 1996), LR 22:583 (July 1996), and LR 24:1503 (August 1998)
749	LR 22:370 (May 1996), and LR 22:583 (July 1996)
901	LR 25:1250 (July 1999)
909	LR 27:53 (January 2001), and LR 29:2398 (November 2003)
913	LR 16:532 (June 1990)
917	LR 27:56 (January 2001)
925	LR 27:53 (January 2001)
931	LR 25:1250 (July 1999)
943	LR 27:54 (January 2001)
953	LR 27:53 (January 2001)
971	LR 27:56 (January 2001)
979	LR 27:53 (January 2001).
1305	LR 22:370 (May 1996), LR 22:583 (July 1996), and LR 27:54 (January 2001)
1313	LR 11:1080 (November 1985)
1321	LR 22:370 (May 1996), LR 22:583 (July 1996), and LR 27:53 (January 2001)
1341	LR 27:53 (January 2001)

1351	LR 9:412 (June 1983), LR 19:497 (April 1993), LR 27:53 (January 2001), and LR 27:55 (January 2001)
1359	LR 27:55 (January 2001)
1505	LR 22:370 (May 1996), repromulgated LR 22:583 (July 1996), amended LR 27:54 (January 2001)
1705	LR 27:54 (January 2001)
1715	LR 27:53 (January 2001)
1905	LR 27:56 (January 2001)
2105	LR 8:598 (November 1982), LR 9:838 (December 1983), LR 27:54 (January 2001), and LR 27:56 (January 2001)
2305	LR 27:53 (January 2001), and LR 27:56 (January 2001)
2501	LR 26:497 (March 2000)
2505	LR 26:497 (March 2000)
2507	LR 26:497 (March 2000)
2509	LR 26:497 (March 2000)
2701	LR 12:155 (March 1986)
2705	LR 27:55 (January 2001), and LR 27:1522 (September 2001)
2719	LR 27:55 (January 2001)
2721	LR 14:88 (February 1988), LR 16:310 (April 1990), and LR 29:41 (January 2003)
2905	LR 27:53 (January 2001)
3105	LR 22:217 (March 1996), and LR 27:55 (January 2001).

**Title 50**

**PUBLIC HEALTHC MEDICAL ASSISTANCE**

**Part XVII. Durable Medical Equipment**

**Subpart 1. Prosthetics**

[Editor's Notes:

1. Prosthetics is administered under the Durable Medical Equipment (DME) Program.
2. Child specific criteria for certain equipment and supplies are specified in LAC 50:XV.Subpart 5, Early Periodic Screening Diagnosis and Treatment (EPSDT).]

**Chapter 1. Administration (Reserved)**

**Chapter 3. Reimbursement**

**§301. Reserved.**

**§303. Medicare Part B Claims**

A. The Medicare payment to the Medicaid rate on file is compared to the Medicare Part B claims for durable medical equipment and supply items. If the Medicare payment exceeds the Medicaid rate, the claim is adjudicated as a paid claim with a zero payment. If the Medicaid rate exceeds the Medicare payment, the claim is reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment.

B. If the Medicaid payment is reduced or eliminated as a result of the Medicare/Medicaid payment comparison, the amount of 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.

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 30:1027 (May 2004).

**§305. Delivery of Equipment and Supplies**

A. The reimbursement rate for delivery of prior authorized durable medical equipment and supplies is either the lesser of billed charges or 5 percent of the total shipping amount for the medical equipment and supplies up to a maximum of \$50.

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 30:1027 (May 2004).

**Chapter 7. Wheelchairs and Accessories**  
**Subchapter A. Wheelchairs, Motorized and/or Custom Motorized**

**§701. Recipient Criteria**

**A. Motorized Wheelchairs**

1. For purposes of this Chapter 7, the term *motorized* shall have the same meaning as power, electric or any means of propulsion other than manual. A motorized wheelchair must be medically necessary. The recipient must meet all of the following criteria in order to be considered for a motorized wheelchair:

a. the recipient is not functionally ambulatory. Not functionally ambulatory means the recipient's ability to ambulate is limited such that without use of a wheelchair, he/she would otherwise be generally bed or chair confined;

b. the recipient is unable to operate a wheelchair manually due to severe weakness of the upper extremities due to a congenital or acquired neurological or muscular disease/condition or is unable to propel any type of manual wheelchair because of other documented health problems; and

c. the recipient is capable of safely operating the controls for a motorized wheelchair and can adapt to or be trained to use a motorized wheelchair effectively.

B. A motorized wheelchair is covered if the recipient's condition is such that the requirement for a motorized wheelchair is long term (at least six months).

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 30:1027 (May 2004).

**§703. Prior Authorization**

A. All wheelchairs and modifications required to meet the needs of a particular recipient are subject to prior authorization. Prior authorization will be made for only one wheelchair at a time. Backup chairs, either motorized or manual, will be denied as not medically necessary. All requests must include:

1. a completed PA -01 form;

2. a physician's prescription for a motorized wheelchair. If the recipient is enrolled in Community Care, the prescription must be written by the recipient's primary care physician (PCP). The physician must specifically state that the prescription is for a motorized wheelchair;

3. medical documentation from a physician is required to support the provisions set forth in §701.A.1.a - b;

4. a seating evaluation performed, signed and dated by the physical therapist or occupational therapist that performed the seating evaluation. The seating evaluation shall:

a. indicate the appropriateness of the specific wheelchair requested and all modifications and/or attachments to the specific wheelchair and its ability to meet the recipient's long term medical needs. Options that are primarily beneficial in allowing the recipient to perform leisure or recreational activities are not covered;

b. include the dated signature of the physician who prescribed the motorized wheelchair, confirming:

i. the recipient's diagnosis or condition is such that a motorized wheelchair is medically necessary; and

ii. he or she has seen the seating evaluation and motorized wheelchair recommendation;

5. documentation indicating that the recipient is capable of safely operating the controls for a motorized wheelchair and can adapt to or be trained to use the motorized wheelchair effectively. It is not sufficient for a Medicaid provider of motorized wheelchairs to indicate that a recipient is capable of safely operating the controls for a motorized wheelchair and can adapt to or be trained to use the motorized wheelchair effectively. Such documentation shall include:

a. a signed and dated statement from the recipient's physician, physical therapist or occupational therapist that he or she has determined that the recipient has the cognitive, motor and perceptual abilities needed to safely operate the controls of a motorized wheelchair. This statement shall be verified by the notes and recommendation of the physician, physical therapist or occupational therapist making such statement; and

b. a signed and dated statement from the recipient's physician, physical therapist or occupational therapist that he or she has determined that the recipient can adapt to or be trained to use the motorized wheelchair effectively. This statement shall be verified by the notes and recommendation of the physician, physical therapist or occupational therapist making such statement.

**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 30:1027 (May 2004).

**§705. Repairs and Modifications**

A. Requests for repairs to motorized wheelchairs will be considered for basic repairs only. Basic repairs are those which are requested to repair an existing component of the recipient's current motorized wheelchair.

B. Requests for modifications or reconstruction of the recipient's current motorized wheelchair shall not be considered basic repairs. Requests for modifications or reconstruction of the recipient's current motorized wheelchair must be submitted in accordance with prior authorization criteria. Modifications or reconstruction will be denied if it is more cost effective to provide a new motorized wheelchair.

C. It is expected that all repairs and modifications of motorized wheelchairs shall be completed within one month, unless there is a justifiable reason for a delay. Rental of a manual wheelchair may be prior authorized on a monthly basis as a temporary replacement, if necessary, when the recipient's motorized wheelchair is being repaired or modified.

**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 30:1028 (May 2004).

**§707. Reimbursement**

A. Reimbursement for wheelchairs with special features is 70 percent of the Medicare fee schedule amount or the amount of billed charges, whichever is the lesser amount for HCPC procedure codes:

1. E1050 - E1060;
2. E1070 - E1110;
3. E1170 - E1213;

4. E1221 - E1224;
5. E1240 - E1295;
6. K0002 - K0014.

a. If an item is not available at the rate of 70 percent of the Medicare fee schedule amount, the flat fee that will be utilized is the lowest cost at which the item has been determined to be widely available by analyzing usual and customary fees charged in the community for the HCPC procedure code.

B. Reimbursement for motorized-type customized wheelchairs is set to MSRP minus 12 percent to MSRP minus 17 percent.

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

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1028 (May 2004).

**Subchapter B. Wheelchairs, Standard Type §§727 - 729. Reserved.**

**§731. Reimbursement**

1. Reimbursement for standard type wheelchairs is 80 percent of the Medicare allowable fee or billed charges, whichever is the lesser amount, to the following Medicaid established flat fee amounts or billed charges, whichever is the lesser amount. The Medicaid established flat fee amounts are:

Code	Purchase	Rental
E1130 and K0001	\$250	\$35 per month
E1140	\$412.50	\$38.50 per month
E1150	\$453.75	\$42.35 per month
E1160	\$375	\$50 per month

2. If an item is not available at the established flat fee, the flat fee that will be utilized is the lowest cost at which the item has been determined to be widely available by analyzing usual and customary fees charged in the community.

**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 30:1028 (May 2004).

**Subchapter C. Wheelchair Accessories**

**§749. Wheelchair Seat Cushions**

A. Seat cushions are approved when the recipient's skin condition or positioning necessitates its use, e.g., decubiti.

**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 30:1028 (May 2004).

**Chapter 9. Respiratory Equipment and Supplies**

**Subchapter A. Mucus Clearance (Flutter) Devices**

**§901. General Provisions**

A. Mucus clearance (flutter) devices are used in the treatment of lung diseases or conditions producing retained secretions. Small hand-held mucus clearance (flutter) devices shall be subject to prior authorization when prescribed by a physician for recipients with lung diseases or conditions producing retained secretions.

**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, Office of the Secretary, Bureau of Health Services Financing, LR 30:1028 (May 2004).

## **Subchapter B. Nebulizer Equipment and Supplies**

### **§§906 - 907. Reserved**

#### **§909. Reimbursement**

A. Reimbursement for nebulizer with compressor (E0570) is the lower of \$60 or the provider's usual and customary charge.

B. Administrative Supplies. Reimbursement for nebulizer administrative supplies is 70 percent of the Medicare fee schedule amount or the amount of billed charges, whichever is the lesser amount for HCPC codes A7003-A7017.

1. If an item is not available at the rate of 70 percent of the Medicare fee schedule amount, the flat fee that will be utilized is the lowest cost at which the item has been determined to be widely available by analyzing usual and customary fees charged in the community for the HCPC procedure code.

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, Office of the Secretary, Bureau of Health Services Financing, LR 30:1029 (May 2004).

## **Subchapter C. Oxygen and Oxygen Supplies**

### **§913. Oxygen Concentrators**

A. Oxygen, breathing equipment such as IPPB (intermittent positive-pressure breathing), CPAP (continuous positive air pressure), and other types of equipment for oxygen delivery not specifically identified as payable are not covered under Title XIX (Medicaid) as a payable medical service.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1029 (May 2004).

### **§915. Reserved.**

#### **§917. Reimbursement**

A. Reimbursement fee for oxygen concentrators is \$1,250 for purchase or \$150 per month for rental, or billed charges, whichever is the lesser amount. If the item is not available at the established rate, the flat fee that will be utilized is the lowest cost at which the item has been determined to be widely available by analyzing usual and customary fees charged in the community.

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 30:1029 (May 2004).

## **Subchapter D. Compressors**

### **§§921 - 923. Reserved**

#### **§925. Reimbursement**

A. Reimbursement for compressors is 70 percent of the Medicare fee schedule amount or the amount of billed charges, whichever is the lesser amount for HCPC Codes E0565.

B. If an item is not available at the rate of 70 percent of the Medicare fee schedule amount, the flat fee that will be

utilized is the lowest cost at which the item has been determined to be widely available by analyzing usual and customary fees charged in the community for the HCPC procedure code.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1029 (May 2004).

## **Subchapter E. Peak Flow Meters**

### **§931. Portable Manual Peak Flow Meters Prior**

#### **Authorization**

A. Portable manual peak flow meters are used for the treatment of asthma. This item is subject to prior authorization when prescribed by a physician for the measurement of lung function as part of an effective asthma management program.

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 30:1029 (May 2004).

## **Subchapter F. Suction Pumps and Supplies**

### **§§939 - 941. Reserved**

#### **§943. Reimbursement**

A. Reimbursement for stationary suction machines is 80 percent of the Medicare allowable fee or billed charges, whichever is the lesser amount, to the following Medicaid established flat fee amounts or billed charges, whichever is the lesser amount. The Medicaid established flat fee for HCPC procedure code E0600 is:

1. \$225 to purchase
2. \$35 for rental per month.

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

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 30:1029 (May 2004).

## **Subchapter G. Humidifiers**

### **§§949 - 951. Reserved**

#### **§953. Reimbursement**

A. Reimbursement for humidifiers is 70 percent of the Medicare fee schedule amount or the amount of billed charges, whichever is the lesser amount, for HCPC Codes E-0550-E0560.

B. If an item is not available at the rate of 70 percent of the Medicare fee schedule amount, the flat fee that will be utilized is the lowest cost at which the item has been determined to be widely available by analyzing usual and customary fees charged in the community for the HCPC procedure code.

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

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**Subchapter H. Ventilator and Tracheostomy Equipment (Reserved.)**

**§§959 - 961. Reserved.**

**Subchapter I. Ventilator and Tracheostomy Care Supplies**

**§§967 - 969. Reserved.**

**§971. Reimbursement**

A. Reimbursement is 70 percent of the Medicare fee schedule amount or billed charges, whichever is the lesser amount, for the following HCPC codes.

A4624-A4625	Suction Catheters
A4621	Tracheostomy masks or collars
A4623	Tracheostomy cannulas

1. If an item is not available at 70 percent of the Medicare fee schedule amount, the flat fee that will be utilized is the lowest cost at which the item has been determined to be widely available by analyzing usual and customary fees charged in the community.

B. The reimbursement is reduced to 90 percent of the Medicare fee schedule amount or billed charges, whichever is the lesser amount, for the following HCPC codes.

A7521	Tracheostomy tubes
A4629	Tracheostomy care kits

1. If an item is not available at 90 percent of the Medicare fee schedule amount, the flat fee that will be utilized is the lowest cost at which the item has been determined to be widely available by analyzing usual and customary fees charged in the community.

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 30:1030 (May 2004).

**Subchapter J. Mechanical Percussors**

**§975-977. Reserved.**

**§979. Reimbursement**

A. Reimbursement for percussors is 70 percent of the Medicare Fee Schedule amount or the amount of billed charges, whichever is the lesser amount, for HCPC Code E0480.

B. If an item is not available at the rate of 70 percent of the Medicare fee schedule amount, the flat fee that will be utilized is the lowest cost at which the item has been determined to be widely available by analyzing usual and customary fees charged in the community for the HCPC procedure code.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1030 (May 2004).

**Chapter 13. Prosthetics and Orthotics**

**Subchapter A. Artificial Eyes**

**§§1301 - 1303. Reserved**

**§1305. Reimbursement**

A. Reimbursement

1. Reimbursement for artificial eyes is 80 percent of the Medicare allowable fee or billed charges, whichever is

the lesser amount. The Medicaid established flat fee amount for HCPC Code V2623 is \$500 for purchase.

2. If the artificial eyes are not available at the established flat fee, the flat fee that will be utilized is the lowest cost at which the item has been determined to be widely available by analyzing usual and customary fees charged in the community.

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, Office of the Secretary, Bureau of Health Services Financing, LR 30:1030 (May 2004).

**Subchapter B. Orthopedic Shoes and Corrections**

**§1309 - 1311. Reserved.**

**§1313. Orthopedic Shoes**

A. Orthopedic shoes and corrections are approved only when the shoes are attached to braces or are needed to protect gains from surgery or casting. Payment will not be made for:

1. metatarsus adductus; or
2. internal tibial torsion.

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 30:1030 (May 2004).

**Subchapter C. Breast or Mammary Prostheses**

**§§1317 - 1319. Reserved.**

**§1321. Reimbursement**

A. Reimbursement for breast prosthesis is 70 percent of the Medicare fee schedule amount or the amount of billed charges, which is the lesser amount for HCPC Codes L7803-L8030.

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

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, Office of the Secretary, Bureau of Health Services Financing, LR 30:1030 (May 2004).

**Subchapter D. Support and Surgical Stockings**

**§§1337 - 1339. Reserved.**

**§1341. Reimbursement**

A. Reimbursement for elastic support stockings is 70 percent of the Medicare fee schedule amount or the amount of billed charged, whichever is the lesser amount for HCPC Codes L8100-L8230 and L8239.

B. If an item is not available at the rate of 70 percent of the Medicare fee schedule amount, the flat fee that will be utilized is the lowest cost at which the item has been determined to be widely available by analyzing usual and customary fees charged in the community for the HCPC procedure code.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1030 (May 2004).

**Subchapter E. Prosthetic Devices**

**§§1347 - 1349. Reserved.**

**§1351. Reimbursement**

A. Reimbursement is 70 percent of the Medicare Fee Schedule amount or billed charges, whichever is the lesser amount for HCPC procedure codes L5000-L7499. If an item is not available at 70 percent of the Medicare fee schedule amount, the flat fee that will be utilized is the lowest cost at which the item has been determined to be widely available by analyzing usual and customary fees charged in the community.

B. Reimbursement is 70 percent of the Medicare fee schedule amount or the amount of billed charges, whichever is the lesser amount for the following HCPC procedure codes:

1. Prosthetic Sheaths CL8400-L8435; and
2. Prosthetic Socks CL8470-L8485.
3. Prosthetics CL5000-L7499

a. If an item is not available at the rate of 70 percent of the Medicare fee schedule amount, the flat fee that will be utilized is the lowest cost at which the item has been determined to be widely available by analyzing usual and customary fees charged in the community for the HCPC procedure code.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1031 (May 2004).

**Subchapter F. Orthotic Devices**

**§§1355 - 1357. Reserved.**

**§1359. Reimbursement**

A. Reimbursement is 70 percent of the Medicare fee schedule amount or billed charges, whichever is the lesser amount for HCPC procedure Codes L0100 - L2999 and L3650 - L4380.

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

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**Chapter 15. Bath and Toilet Aids**

**Subchapter A. Commode Chairs**

**§§1501 - 1503. Reserved.**

**§1505. Reimbursement**

A. Reimbursement for commode chairs is 80 percent of the Medicare allowable fee or billed charges, whichever is the lesser amount, to the following Medicaid established flat fee amounts or billed charges, whichever is the lesser amount. The Medicaid established flat fee amounts will be as follows.

Code	Purchase Amount
E0163	\$ 55
E0164	\$ 83.55
E0165	\$ 85
E0166	\$142.80

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

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 30:1031 (May 2004).

**Chapter 17. Hospital Beds and Related Equipment**

**Subchapter A. Hospital Beds**

**§§1701 - 1703. Reserved.**

**§1705. Reimbursement**

A. Reimbursement for hospital beds is 80 percent of the Medicare allowable fee or billed charges, whichever is the lesser amount, to the following Medicaid established flat fee amounts or billed charges, whichever is the lesser amount. The Medicaid established flat fee amounts will be as follows.

Code	Purchase	Rental
E0255	\$ 650	\$75
E0265	\$1,250	\$75

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

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, Office of the Secretary, Bureau of Health Services Financing, LR 30:1031 (May 2004).

**Subchapter B. Patient Lifts**

**§§1711 - 1713. Reserved.**

**§1715. Lift Sling Reimbursement**

A. Reimbursement for patient lift slings is 70 percent of the Medicare fee schedule amount or the amount of billed charges, whichever is the lesser amount for HCPC Code E0621.

B. If an item is not available at the rate of 70 percent of the Medicare fee schedule amount, the flat fee that will be utilized is the lowest cost at which the item has been determined to be widely available by analyzing usual and customary fees charged in the community for the HCPC procedure code.

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, Office of the Secretary, Bureau of Health Services Financing, LR 30:1031 (May 2004).

**Chapter 19. Diabetic Equipment and Supplies**

**Subchapter A. Glucometers**

**§§1901 - 1903. Reserved.**

**§1905. Reimbursement**

A. Reimbursement for glucometers is \$30 for purchase, or billed charges, whichever is the lesser amount. If the item is not available at the established rate, the flat fee that will be utilized is the lowest cost at which the item has been determined to be widely available by analyzing usual and customary fees charged in the community.

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, Office of the Secretary, Bureau of Health Services Financing, LR 30:1031 (May 2004).

**Subchapter B. Continuous Subcutaneous Insulin External Infusion Pumps (Reserved.)**

**Chapter 21. Hyperalimentation Therapy**

**Subchapter A. Hyperalimentation Therapy Aids (Parenteral and Enteral)**

§2101 - 2103. Reserved.

**§2105. Reimbursement**

A. Equipment Purchase/Rental. The reimbursement for the following is the Medicaid established flat fee amount or billed charges, whichever is the lesser amount.

Enteral Infusion Pumps		
B9000, B9002	\$595 purchase	\$92 rental per month

1. If an item is not available at the established flat fee, the flat fee that will be utilized is the lowest cost at which the item has been determined to be widely available by analyzing usual and customary fees charged in the community.

B. Parenteral and Enteral Supplies. Reimbursement is 70 percent of the Medicare Fee Schedule amount or billed charges, whichever is the lesser amount, for the following HCPC codes.

B4034-B4083 B9004-B9999	Parenteral and Enteral
E0776, E0791	Supplies

1. If an item is not available at 70 percent of the Medicare Fee Schedule amount, the flat fee that will be utilized is the lowest cost at which the item has been determined to be widely available by analyzing usual and customary fees charged in the community.

C. Enteral Formulas. Reimbursement for enteral formulas is 80 percent of the Medicare Fee Schedule, or a rate of 80 percent of the established flat fee amount, or 80 percent of the Manufacturer's Suggested Retail Price (MSRP), or billed charges, whichever is the lesser amount. If an enteral formula is not available at the rate of 80 percent of the Medicare Fee Schedule, 80 percent of the established flat fee amount, or 80 percent of the MSRP, the flat fee that will be utilized is the lowest cost at which the enteral formula has been determined to be widely available by analyzing usual and customary fees charged in the community.

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 30:1032 (May 2004).

**Chapter 23. IV Therapy and Administrative Supplies**

§§2301 - 2303. Reserved.

**§2305. Reimbursement**

A. Reimbursement is set at 70 percent of the Medicare fee schedule amount or the amount of billed charges, whichever is the lesser amount for the following HCPC procedure codes.

E0781, K0455, E0791	External Ambulatory Infusion Pumps
E0776	Infusion Pump IV Pole

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

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 30:1032 (May 2004).

**Chapter 25. Osteogenic Bone Growth Stimulators**

**§2501. General Provisions**

A. Osteogenic bone growth stimulators are used to augment bone repair associated with either a healing fracture or bone fusion.

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, Office of the Secretary, Bureau of Health Services Financing, LR 30:1032 (May 2004).

**§2503. Reserved.**

**§2505. Nonspinal Noninvasive Electrical**

A. Nonspinal noninvasive electrical bone growth stimulators may be considered under the following circumstances:

1. the failure of long bone fractures to heal. A period of six months from the initial date of treatment must elapse before failure is considered to have occurred;

2. the failure of long bone fusions (period of nine months from the initial date of treatment must elapse before failure is considered to have occurred); or

3. the treatment of congenital pseudoarthroses. There is no minimal time requirement after the diagnosis.

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, Office of the Secretary, Bureau of Health Services Financing, LR 30:1032 (May 2004).

**§2507. Medical Necessity**

A. Nonspinal Noninvasive Electrical. Spinal noninvasive electrical bone growth stimulators may be considered:

1. when a minimum of nine months has elapsed since the patient had fusion surgery which resulted in a failed spinal fusion; or

2. when there is a history of a previously failed spinal fusion at the same site following spinal fusion surgery (meaning more than nine months has elapsed since fusion surgery was performed at the same level which is being fused again). As long as nine months has passed since the failed fusion surgery, this repeated fusion attempt requires no minimum passage of time for the application of the device; or

3. following a multi-level spinal fusion (i.e., involving three or more contiguous vertebrae, such as L3-L5 of L4-S1). There is no minimum requirement for application after surgery.

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, Office of the Secretary, Bureau of Health Services Financing, LR 30:1032 (May 2004).

**§2509. Reimbursement**

A. Medicaid coverage is limited to reimbursement for electrical, noninvasive types of bone growth stimulators

only. Medicaid will not provide reimbursement for ultrasonic or invasive types of bone growth stimulators.

**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, Office of the Secretary, Bureau of Health Services Financing, LR 30:1032 (May 2004).

**Chapter 27. Ostomy and Urological Supplies**

**Subchapter A. Ostomy Supplies**

**§2701. Description**

A. Ostomy equipment (bags, supplies, cement, lubricant, solvents, and tincture of Benzoin) are considered only if prescribed for clients with ostomies. Diapers or disposable diapers shall not be considered as ostomy equipment and supplies covered by Medical Assistance Program.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254, Title XIX of the Social Security Act, and 42 CFR 440.120(c).

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1033 (May 2004).

**§2703. Reserved.**

**§2705. Reimbursement**

A. Reimbursement for ostomy and urological supplies is 80 percent of the Medicare fee schedule, 80 percent of the manufacturers suggested retail price (MSRP), or billed charges, whichever is the lesser amount, for HCPC codes:

A4331 – A5123  
K0567 – K0595

B. If an item is not available at 80 percent of the Medicare fee schedule amount or 80 percent of the MSRP amount, the flat fee that will be utilized is the lowest cost at which the item has been determined to be widely available by analyzing usual and customary fees charged in the community.

**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 30:1033 (May 2004).

**Subchapter B. Urological Supplies**

**§§2715 - 2717. Reserved**

**§2719. Reimbursement**

A. Reimbursement is 70 percent of the manufacturer's retail price (MSRP) amount, or billed charges, whichever is the lesser amount, for HCPC codes.

A4320 – A4351

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

**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 30:1033 (May 2004).

**§2721. Indwelling Catheters and Catheter Trays**

A. The following governs the coverage and reimbursement of indwelling catheters and catheter trays.

Description	Fee
Catheter and Catheter Tray	\$11.19
Catheter Tray	\$ 4.05
Catheter	\$ 7.14

**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 30:1033 (May 2004).

**Chapter 29. Traction Equipment**

**§§2901 - 2903. Reserved.**

**§2905. Reimbursement**

A. Reimbursement for traction equipment is 70 percent of the Medicare fee schedule amount of billed charges, whichever is the lesser amount for HCPC procedure codes E-0840 - E-0948.

1. If an item is not available at the rate of 70 percent of the Medicare fee schedule amount, the flat fee that will be utilized is the lowest cost at which the item has been determined to be widely available by analyzing usual and customary fees charged in the community for the HCPC procedure code.

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

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1033 (May 2004).

**Chapter 31. Skin Care and Infection Control**

**Subchapter A. Wound and Surgical Dressings or Bandages**

**§§3101 - 3103. Reserved**

**§3105. Reimbursement**

A. Wound care supplies and dressings, and other medically necessary supply items exclusively designated for home health care are reimbursable under the Durable Medical Equipment Program, and are not reimbursable under the Home Health Program. Durable medical equipment providers must obtain prior authorization through the prior authorization process required under the Durable Medical Equipment Program in order to provide and be reimbursed for these home health care supplies. These supplies must be used by home health agencies in the home.

1. Diapers and blue pads are not reimbursable supply items under the Durable Medical Equipment Program.

B. Reimbursement is 70 percent of the Medicare fee schedule, or 70 percent of the Manufacturers Suggested Retail Price (MSRP) amount, or billed charges, whichever is the lesser amount, for HCPC Codes A4244 – K0413.

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

**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 30:1033 (May 2004).

Frederick P. Cerise, M.D., M.P.H.  
Secretary

0405#009

**RULE**

**Department of Health and Hospitals  
Office of the Secretary  
Bureau of Health Services Financing**

Rehabilitation Reimbursement Fee Increase (Ages 0 up to 3)  
(LAC 50:V.30527, XI.303, XV.7101-7103, XIX.703)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the June 20, 1997 and May 20, 2001 Rules governing the reimbursement methodology for rehabilitation services provided by outpatient hospitals and home health agencies to increase the reimbursement rates for rehabilitation services provided to Medicaid recipients up to the age of 3. The new reimbursement rates for rehabilitation services are as follows.

**Title 50**

**PUBLIC HEALTHC MEDICAL ASSISTANCE**

**Part V. Hospitals**

**Subpart 3. Outpatient Hospitals**

**Chapter 305. Reimbursement**

**Subchapter C. Rehabilitation Services**

**§30525. Reimbursement (Ages 3 and Above)**

Reserved.

**§30527. Reimbursement (Ages 0 up to Age 3)**

A. The following are reimbursement rates for rehabilitation services provided to Medicaid recipients up to the age of 3, regardless of the type of provider performing the services.

Procedure	Rate
Initial speech/language evaluation	\$ 70.00
Initial hearing evaluation	\$ 70.00
Speech/language/hearing therapy, 60 minutes	\$ 56.00
Visit w/procedure(s), 45 minutes	\$ 56.00
Visit w/procedure(s), 60 minutes	\$ 74.00
Visit w/procedure(s), 90 minutes	\$112.00
Procedures and modalities, 60 minutes	\$ 74.00
Physical therapy and rehab evaluation	\$ 75.00
Initial occupational therapy evaluation	\$ 70.00
Occupational therapy, 45 minutes	\$ 45.00
Occupational therapy, 60 minutes	\$ 60.00
Physical therapy, 1 modality	\$ 37.00
Physical therapy, 2 or more modalities	\$ 56.00
Physical therapy, 1 or more procedures, and/or modalities, 15 minutes	\$ 18.50
Physical therapy w/procedures, 30 minutes	\$ 37.00
Physical therapy w/procedures, 75 minutes	\$ 92.50
Occupational therapy, 15 minutes	\$ 15.00
Occupational therapy, 30 minutes	\$ 30.00
Speech and hearing therapy, 15 minutes	\$ 14.00
Speech and hearing therapy, 30 minutes	\$ 28.00
Speech and hearing therapy, 45 minutes	\$ 42.00
Speech and hearing therapy, 60 minutes	\$ 56.00

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1034 (Mary 2004).

**Part XI. Clinic Services**

**Subpart 1. Rehabilitation Clinics**

**Chapter 3. Reimbursement**

**§301. Reimbursement (Ages 3 and Over)**

Reserved.

**§303. Reimbursement (Ages 0 up to 3)**

A. Effective for dates of service on or after November 2 2003, the reimbursement rates for rehabilitation services provided to Medicaid recipients up to the age of 3, regardless of the type of provider performing the services, will be as follows.

Procedure	Rate
Group sp lang hear therapy 1/2 hour	\$ 26
Speech group therapy add 15 minutes	\$ 13
Group sp lang hear therapy 1 hour	\$ 51
Initial sp/lang evaluation	\$ 70
Initial hearing evaluation	\$ 70
Sp/lang/hear therapy 30 minutes	\$ 26
Sp/lang/hear therapy 45 minutes	\$ 39
Sp/lang/hear therapy 60 minutes	\$ 52
Visit w/procedure(s) 30 minutes	\$ 34
Visit w/procedure(s) 45 minutes	\$ 51
Visit w/procedure(s) 60 minutes	\$ 68
Visit w/procedure(s) 75 minutes	\$ 85
Visit w/procedure(s) 90 minutes	\$102
Ctr visit one/more modal/proc 15 minutes	\$ 17
Procedures and modalities 60 minutes	\$ 68
Pt and rehab evaluation	\$ 75
Initial ot evaluation	\$ 70
Ot 30 minutes	\$ 26
Ot 45 minutes	\$ 39
Ot 60 minutes	\$ 52

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1034 (May 2004).

**Part XV. Services for Special Populations**

**Subpart 5. Early and Periodic Screening, Diagnosis, and Treatment**

**Chapter 71. Rehabilitation Services**

**§7101. Reimbursement (Ages 3 - 21)**

A. Medically necessary physical therapy, occupational therapy, and speech therapy required for maintenance of optimum functional levels shall be reimbursed under the EPSDT health services program when such services are rendered to Medicaid-eligible recipients ages 3 through 21. Prior authorization for these services shall be required and a determination of medical necessity shall be made by the Bureau of Health Services Financing prior to approval.

B. - C. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:176 (February 2003), amended LR 30:1034 (May 2004).

**§7103. Reimbursement (Ages 0 up to 3)**

A. Effective for dates of services on or after July 4, 2003, rehabilitation service reimbursement rates for Medicaid recipients ages 0 up to 3 provided by EPSDT health services

providers will be as follows, regardless of the type of provider performing the services.

Procedure	Rate
Electrical stimulation	\$ 17
Physical therapy-one area—therapeutic-30 minutes	\$ 17
Physical therapy-neuromuscular reed-30 minutes	\$ 17
Physical therapy-gait training-30 minutes	\$ 34
Orthotic training	\$ 14
Kinetic act one area-30 minutes	\$ 14
Physical performance test	\$ 14
Physical therapy evaluation/re-evaluation	\$ 92
Occupational therapy evaluation/re-evaluation	\$ 70
Speech/language evaluation/re-evaluation	\$ 70
Speech/language therapy C30 minutes	\$ 26
Speech/language therapy-add 15 minutes	\$ 13
Group speech/language/hearing therapy C30 minutes	\$ 26
Speech group therapy C20 minutes	\$ 13
Speech group therapy Cadd 15 minutes	\$ 13
Group Speech/language/hearing therapy C1 hour	\$ 52
Speech/language/hearing therapy C20 minutes	\$ 17
Speech/language/hearing therapy C1 hour	\$ 52
Procedures and modalities C30 minutes	\$ 34
Procedures and modalities C45 minutes	\$ 52

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1034 (May 2004).

**Part XIX. Other Services**  
**Subpart 1. Home Health**

**Chapter 7. Rehabilitation Services**

**§701. Reimbursement (Ages 3 and Above)**

Reserved.

**§703. Reimbursement (0 Up to Age 3)**

A. The following rehabilitation services are reimbursed under Medicaid as a home health service by a home health agency rendered to Medicaid-eligible recipients ages 0 up to age 3 regardless of the type of provider performing the services.

Procedure	Rate
Initial speech/language evaluation	\$ 70.00
Initial hearing evaluation	\$ 70.00
Speech/language/hearing therapy, 60 minutes	\$ 56.00
Visit w/procedure(s), 45 minutes	\$ 56.00
Visit w/procedure(s), 60 minutes	\$ 74.00
Visit w/procedure(s), 90 minutes	\$112.00
Procedures and modalities, 60 minutes	\$ 74.00
Physical therapy and rehab evaluation	\$ 75.00
Initial occupational therapy evaluation	\$ 70.00
Occupational therapy, 45 minutes	\$ 45.00
Occupational therapy, 60 minutes	\$ 60.00
Physical therapy, 1 modality	\$ 37.00
Physical therapy, 2 or more modalities	\$ 56.00
Physical therapy, 1 or more procedures, and/or modalities, 15 minutes	\$ 18.50
Physical therapy w/procedures, 30 minutes	\$ 37.00
Physical therapy w/procedures, 75 minutes	\$ 92.50
Occupational therapy, 15 minutes	\$ 15.00
Occupational therapy, 30 minutes	\$ 30.00
Speech and hearing therapy, 15 minutes	\$ 14.00
Speech and hearing therapy, 30 minutes	\$ 28.00
Speech and hearing therapy, 45 minutes	\$ 42.00
Speech and hearing therapy, 60 minutes	\$ 56.00

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 30:1035 (May 2004).

Implementation of the provisions of this Rule shall be contingent upon the approval of the US. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Frederick P. Cerise, M.D., M.P.H.  
Secretary

0405#054

**RULE**

**Department of Health and Hospitals**  
**Office of the Secretary**  
**Bureau of Health Services Financing**

**Targeted Case Management**  
**(LAC 50:XV.Chapters 101-119)**

Editor's Note: The following Subpart has recently been compiled and is being promulgated for codification purposes.

The table below shows the compiled Rules used to create each Section.

Section Number	Rules
10101	LR 12:834 (December 1986), LR 19:648 (May 1993), LR 23:732 (June 1997), and LR 25:1251 (July 1999).
10301	LR 12:834 (December 1986), LR 19:648 (May 1993), LR 23:732 (June 1997), and LR 25:1251 (July 1999).
10501	LR 12:834 (December 1986), LR 23:732 (June 1997), LR 25:1251 (July 1999), and LR 29:38 (January 2003).
10503	LR 12:834 (December 1986), LR 23:732 (June 1997), LR 25:1251 (July 1999), and LR 29:38 (January 2003).
10505	LR 12:834 (December 1986), LR 23:732 (June 1997), LR 25:1251 (July 1999), and LR 29:38 (January 2003).
10507	LR 12:834 (December 1986), LR 23:732 (June 1997), (LR 25:1251 (July 1999), LR 26:2796 (December 2000), LR 26:2797 (December 2000), and LR 29:39 (January 2003).
10701	LR 12:834 (December 1986), LR 18:964 (September 1992), LR 23:732 (June 1997), and LR 25:1251 (July 1999).
10901	LR 18:849 (August 1992), and LR 20:18 (January 1994).
10903	LR 18:849 (August 1992), and LR 20:18 (January 1994).
10905	LR 18:849 (August 1992), LR 19:648 (May 1993), and LR 20:18 (January 1994).
11101	LR 26:2796 (December 2000)
11103	LR 26:2796 (December 2000), and LR 29:1481 (August 2003)
11105	LR 26:2796 (December 2000)
11301	LR 26:2797 (December 2000)
11303	LR 26:2797 (December 2000)
11501	LR 15:480 (June 1989), LR 23:732 (June 1997), and LR 25:1251 (July 1999).
11503	LR 15:480 (June 1989), LR 23:732 (June 1997), and LR 25:1251 (July 1999).
11505	LR 12:834 (December 1986), LR 19:645 (May 1993), LR 19:648 (May 1993), LR 23:732 (June 1997), and LR 25:1251 (July 1999).
11701	LR 16:312 (April 1990), LR 23:732 (June 1997), and LR 25:1251 (July 1999).
11901	LR 15:479 (June 1989), LR 23:732 (June 1997), and LR 25:1251 (July 1999).
11903	LR 15:479 (June 1989)
11905	LR 15:479 (June 1989), LR 19:645 (May 1993), LR 23:732 (June 1997), and LR 25:1251 (July 1999).

## Title 50

### PUBLIC HEALTHC MEDICAL ASSISTANCE

#### Part XV. Services for Special Populations

##### Subpart 7. Targeted Case Management

#### Chapter 101. General Provisions

##### §10101. Program Description

A. This Subpart 7 governs the provision of case management services to targeted population groups and certain home and community based services waiver groups. The primary objective of case management is the attainment of the personal outcomes identified in the recipient's comprehensive plan of care. All case management agencies shall be required to incorporate personal outcome measures in the development of comprehensive plans of care and to implement procedures for self-evaluation of the agency. All case management agencies must comply with the policies contained in this Subpart 7 and the *Medicaid Case Management Services Provider Manual* issued March 1, 1999 and all subsequent changes. Case management is defined as services provided to individuals to assist them in gaining access to the full range of needed services including:

- a. medical;
- b. social;
- c. educational; and
- d. other support services.

B. The department utilizes a broker model of case management in which recipients are referred to other agencies for the specific services they need. These services are determined by individualized planning with the recipient's family, and other persons/professionals deemed appropriate. Services are provided in accordance with a written comprehensive plan of care which includes measurable person-centered outcomes.

C. Recipient Freedom of Choice. Recipients have the right to select the provider of their case management services from among those available agencies enrolled to participate in the program. Recipients are requested to indicate a first and second choice of a provider from among those available providers in the region. If the recipient fails to respond or fails to indicate a second choice of provider and their first choice is full, the department will automatically assign them to an available provider. Recipients who are auto-assigned may change once, after 30 days but before 45 days of auto assignment, to an available provider.

D. Recipients must be linked to a case management agency for a six-month period before they can transfer to another agency unless there is good cause for the transfer. Approval of good cause shall be made by the DHH case management administrator. Good cause is determined to exist under the following circumstances:

1. the recipient moves to another DHH region; or
2. there are irreconcilable differences between the agency and the recipient.

E. Recipients who are being transitioned from a developmental center into the MD/DD Waiver Program shall receive their case management services through the Office for Citizens with Developmental Disabilities (OCDD).

F. Recipients who are under the age of 21 and require ventilator assisted care may receive case management services through the Children's Hospital Ventilator Assisted Care Program.

G. Monitoring. The Department of Health and Hospitals and the Department of Health and Human Services have the authority to monitor and audit all case management agencies in order to determine continued compliance with the rules, policies, and procedures governing case management services.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing LR 30:1036 (May 2004).

#### Chapter 103. Core Elements

##### §10301. Services

A. All Medicaid-enrolled case management agencies are required to perform the following core elements of case management services.

1. Case Management Intake. The purpose of intake is to serve as an entry point for case management services and to gather baseline information to determine the recipient's need, appropriateness, eligibility and desire for case management.

2. Case Management Assessment. Assessment is the process of gathering and integrating formal and informal information regarding a recipient's goals, strengths, and needs to assist in the development of a person centered comprehensive plan of care. The purpose of the assessment is to establish a contract between the case manager and recipient for the provision of service. The assessment shall be performed in the recipient's home.

3. Comprehensive Plan of Care Development. The comprehensive plan of care (CPOC) is a written plan based upon assessment data (which may be multidisciplinary), observations and other sources of information which reflect the recipient's needs, capacities and priorities. The purpose of the CPOC is to identify the services required and the resources available to meet these needs.

a. The CPOC must be developed through a collaborative process involving the recipient, family, case manager, other support systems, appropriate professionals and service providers. It shall be developed in the presence of the recipient; therefore, it cannot be completed prior to a meeting with the recipient. The recipient, family, case manager, support system and appropriate professional personnel must be directly involved and agree to assume specific functions and responsibilities.

b. The CPOC must be completed and submitted for approval within 35 calendar days of the referral for case management services.

4. Case Management Linkage. Linkage is the arranging of services agreed upon with the recipient and identified in the CPOC. Upon the request of the recipient or responsible party, attempts must be made to meet service needs with informal resources as much as possible.

5. Case Management Follow-Up/Monitoring. Follow-up/monitoring is the mechanism used by the case manager to assure the appropriateness of the CPOC. Through follow-up/monitoring activity, the case manager not only determines the effectiveness of the CPOC in meeting the recipient's needs, but identifies when changes in the recipient's status necessitate a revision in the CPOC. The purpose of follow-up/monitoring contacts is to determine:

- a. if services are being delivered as planned;

b. if services are effective and adequate to meet the recipient's needs; and

c. whether the recipient is satisfied with the services.

6. **Case Management Reassessment.** Reassessment is the process by which the baseline assessment is reviewed and information is gathered for evaluating and revising the overall CPOC. At least every quarter, a complete review of the CPOC must be performed to assure that the goals and services are appropriate to the recipient's needs as identified in the assessment/reassessment process. A reassessment is also required when a major change occurs in the status of the recipient and/or his family.

7. **Case Management Transition/Closure**

a. Provided that the recipient has satisfied the requirements of linkage under §10301.A.4, discharge from a case management agency must occur when the recipient:

- i. no longer requires services;
- ii. desires to terminate services;
- iii. becomes ineligible for services; or
- iv. chooses to transfer to another case management agency.

b. The closure process must ease the transition to other services or care systems. The agency shall not retaliate in any way against the recipient for terminating services or transferring to another agency for case management services.

B. In addition to the provision of the core elements, a minimum of one home visit per quarter is required for all recipients of optional targeted and waiver case management services. The agency shall ensure that more frequent home visits are performed if indicated in the recipient's CPOC. The purpose of the home visit, if it is determined necessary, is to:

1. assess the effectiveness of support strategies and to assist the individual to address problems;
2. maximize opportunities; and/or
3. revise support strategies or personal outcomes.

C. The case management agency shall also be responsible for monitoring service providers quarterly through telephone monitoring, on-site observation of service visits and review of the service providers' records. The agency must also ensure that the service provider and recipient are given a copy of the recipient's most current CPOC and any subsequent updates.

**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 30:1036 (May 2004).

## **Chapter 105. Provider Participation**

### **§10501. Participation Requirements**

A. In order to participate as a case management services provider in the Medicaid Program, an agency must comply with:

1. licensure and certification requirements;
2. provider enrollment requirements;
3. the Case Management Manual; and
4. the specific terms of individual contractual agreements.

B. Providers interested in enrolling to provide Medicaid case management services must submit a written request to the Bureau of Community Supports and Services (BCSS)

identifying the case management population and the region they wish to serve. A new provider must attend a provider enrollment orientation prior to obtaining a provider enrollment packet. The bureau will offer orientation sessions at least twice per year. Enrollment packets will only be accepted for service delivery in those DHH regions that currently have open enrollment for case management agencies interested in serving certain targeted populations. A separate PE-50 and Disclosure of Ownership form is required for each targeted or waiver population and DHH designated region that the agency plans to serve, as well as for each office site it plans to operate. The agency shall provide services only in the parishes of the DHH administrative region for which approval has been granted.

C. The participation of case management agencies providing service to targeted and waiver populations will be limited contingent on the approval of a 1915(b)(4) waiver by the Centers for Medicare and Medicaid Service (CMS).

D. The following are enrollment requirements applicable to all case management agencies, regardless of the targeted or waiver group served. Failure to comply with these requirements may result in sanctions and/or recoupment and disenrollment. The agency shall:

1. demonstrate direct experience in successfully serving the target population and shall have demonstrated knowledge of available community services and methods for accessing them including:

a. the maintenance of a current file containing community resources available to the target population and established linkages with those resources;

b. demonstrating knowledge of the eligibility requirements and application procedures for federal, state, and local government assistance programs which are applicable to the target population served;

c. the employ of sufficient number of case manager and supervisory staff to comply with the staff coverage, staffing qualifications and maximum caseload size requirements described in §§10503 and 10701.

2. demonstrate administrative capacity and financial resources to provide all core elements of case management services and ensure effective service delivery in accordance with DHH licensing and programmatic requirements;

3. submit a yearly audit of case management costs only and have no outstanding or unresolved audit disclaimer(s) with DHH;

4. assure that all agency staff is employed in accordance with Internal Revenue Service (IRS) and Department of Labor regulations. The subcontracting of individual case managers and/or supervisors is prohibited. However, those agencies who have been awarded Medicaid contracts for case management services may subcontract with another licensed case management agency for case manager and/or supervisory staff if prior approval has been obtained from the Department;

5. assure that all new staff satisfactorily completes an orientation and training program in the first 90 days of employment. All case managers must attend all training mandated by the department. Each case manager and supervisor must satisfactorily complete case management related training annually to meet the minimum training requirements;



6. submit to the Bureau of Community Supports and Services an agency quality improvement plan (QAP) for approval within 90 days of enrollment. Six months following approval of the QAP and annually thereafter, the agency must submit an agency self-evaluation using the requirements contained in the Medicaid case management services provider manual.

7. document and maintain recipient records in accordance with federal and state regulations governing confidentiality and licensing requirements;

8. assure the recipient's right to elect to receive or terminate case management services (except for recipients in the MR/DD or Elderly and Disabled Adult Waiver Programs). Assure that each recipient has freedom of choice in the selection of an available case management agency (every six months), a qualified case manager, or other service providers and the right to change providers or case managers;

9. assure that the agency and case managers will not provide case management and Medicaid reimbursed direct services to the same recipient(s) unless by an affiliate agency with a separate board of directors;

10. with the recipient's permission, agree to maintain regular contact, share relevant information and coordinate medical services with the recipient's attending physician;

11. demonstrate the capacity to participate in the department's electronic data gathering system(s). All requirements for data submittal must be followed and participation is required for all enrolled case management agencies. The software is the property of the department;

12. complete management reports as described in the provider manual.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing LR 30:1037 (May 2004).

### **§10503. Provider Responsibilities**

A. In order to be reimbursed by the Medicaid Program, an enrolled provider of targeted or waiver case management service must comply with all of the requirements listed in this §10503.

B. Case management agencies must maintain sufficient staff to serve recipients within the mandated caseload size of 35 with a supervisor to staff ratio of no more than eight case managers per supervisor. All case managers must be employed by the agency at least 40 hours per week and work at least 50 percent of the time during normal business hours (8 a.m. to 5 p.m., Monday through Friday). Case management supervisors must be full-time employees and must be continuously available to case managers by telephone or beeper at all other times when not on site when case management services are being provided. All exceptions to the maximum caseload size or full-time employment of staff requirements must be prior authorized by the bureau. The agency must have a written policy to ensure service coverage for all recipients during the normal absences of case managers and supervisors or prior to the filling of vacated staff positions.

C. The agency must maintain a toll-free telephone number to ensure that recipients have access to case management services 24 hours a day, seven days a week.

Recipients must be able to reach an actual person in case of an emergency, not a recording.

D. Each enrolled case management agency shall employ or contract with a licensed registered nurse to serve as a consultant.

a. Each case management agency must have a written job description and consultation plan that describes how the nurse consultant will participate in the comprehensive plan of care (CPOC) development for medically complex individuals and others as indicated by the high risk indicators.

b. The nurse consultant shall provide consultation to the case management agency staff on health-related issues as well as education and training for case managers and case manager supervisors.

c. The nurse consultant shall be available on-site at the case management agency location at least four hours per week.

E. Agency Caseload Limitations. Under the terms of the contractual agreement, case management agencies have a restriction on the total number of recipients it may serve. In a region where there are two agencies providing services, the maximum number of recipients that any one agency may serve is 60 percent of the available recipient population. In a region where there are three agencies providing services, the maximum number of recipients that any one agency may serve is 40 percent of the available recipient population.

F. Records. All agency records must be maintained in an accessible, standardized order and format at the DHH enrolled office site. The agency must have sufficient space, facilities and supplies to ensure effective record keeping.

1. Administrative and recipient records must be maintained in a manner to ensure confidentiality and security against loss, tampering, destruction or unauthorized use.

2. The case management agency must retain its records for the longer of the following time frames:

a. five years from the date of the last payment; or

b. until the records are audited and all audit questions are answered.

3. Agency records must be available for review by the appropriate state and federal personnel at all reasonable times.

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 30:1038 (May 2004).

### **§10505. Staff Education and Experience**

A. Each Medicaid-enrolled agency must ensure that all staff providing case management services meet the qualifications required in this §10701 prior to assuming any full caseload responsibilities.

B. Case Managers. All case managers must meet one of the following minimum education and experience qualifications:

1. a bachelor's degree in a human service-related field such as psychology, education, rehabilitation counseling, or counseling from an accredited college or university and one year of paid experience in a human-service-related field providing direct services or case management services; or

2. a licensed registered nurse with one year of paid experience as a registered nurse in public health or a human-

service-related field providing direct services or case management services; or

3. a bachelors or masters degree in social work from a social work program accredited by the Council on Social Work Education.

a. The above-referenced minimum qualifications for case managers are applicable for all targeted and waiver groups. Thirty hours of graduate level course credit in a human-service-related field may be substituted for the one year of required paid experience.

b. In addition, case managers serving High-Risk Pregnant Women must demonstrate knowledge about perinatal care and meet either one of the qualifications cited above or the following qualification;

4. a registered dietician with one year of paid experience in providing nutrition services to pregnant women.

C. Case Management Supervisors. All case management supervisors must meet one of the following education and experience requirements. Supervisors of case managers for High-Risk Pregnant Women must demonstrate knowledge about perinatal care in addition to meeting one of these qualifications:

1. a masters degree in social work, psychology, nursing, counseling, rehabilitation counseling, education (with special education certification), occupational therapy, speech therapy or physical therapy from an accredited college or university and two years of paid post-masters degree experience in a human-service related field providing direct services or case management services. One year of this experience must be in providing direct services to the target population served; or

2. a bachelors degree in social work from a social work program accredited by the Council on Social Work Education and three years of paid post-bachelors degree experience in a human-service related field providing direct services or case management services. One year of this experience must be in providing direct services to the target population served; or

3. a licensed registered nurse with three years of paid post-licensure experience as a registered nurse in public health or a human service-related field providing direct services or case management services. Two years of this experience must be in providing direct services to the target population served; or

4. a bachelors degree in a human-service-related field such as psychology, education, rehabilitation counseling, or counseling from an accredited college or university and four years of paid post-bachelors degree experience in a human service related field providing direct services or case management services. Two years of this experience must be in providing direct services to the target population served.

a. The above minimum qualifications for case management supervisors are applicable for all targeted and waiver groups. Thirty hours of graduate level course credit in a human-service-related field may be substituted for one year of the required paid experience.

D. Nurse Consultant. The nurse consultant must meet the following educational qualifications:

1. be a licensed registered nurse with a bachelor's degree in nursing. No substitutions for the bachelor's degree in nursing is allowed; and

2. have one year of paid experience as a registered nurse in a public health or human service field providing direct recipient services or case management.

E. Case Manager Trainee

1. The case management agency must obtain prior approval from the bureau before a case management trainee can be hired. The maximum allowable caseload for a case manager trainee is 20 recipients. The case management trainee position may be utilized to provide services to the following target populations:

- a. Infants and Toddlers;
- b. HIV;
- c. MR/DD Waiver;
- d. Elderly and Disabled Adult Waiver; and
- e. Targeted EPSDT.

2. The case management trainee must meet the following educational qualifications. A bachelor's degree in:

- a. social work;
- b. psychology;
- c. education;
- d. rehabilitation counseling; or
- e. a human-service-related field from an accredited college or university.

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 30:1038 (May 2004).

#### **§10507. Staff Training**

A. Training for case managers and supervisors must be provided or arranged for by the case management agency at its own expense. Agencies must send the appropriate staff to all training mandated by DHH.

B. Training for New Staff. A minimum of 16 hours of orientation must be provided to all staff, volunteers, and students within one week of employment. A minimum of eight hours of the orientation training must address the target population including, but not limited to, specific service needs, available resources and other topics. In addition to the required 16 hours of orientation, all new employees who have no documentation of previous training must receive a minimum of 16 hours of training during the first 90 calendar days of employment related to the target population and the skills and techniques needed to provide case management to that population.

C. Annual Training. Case managers and supervisors must satisfactorily complete a minimum of 40 hours of case management-related training annually which may include updates on subjects covered in orientation and initial training. The 16 hours of orientation training required for new employees are not included in the annual training requirement of at least 40 hours.

D. Documentation. All training required in Subsections B and C above must be evidenced by written documentation and provided to the department upon request.

E. Supervisory Responsibilities. Each case management supervisor shall be responsible for assessing staff performance, reviewing individual cases, providing feedback, and assisting staff to develop problem solving skills using two or more of the following methods:

1. individual, face-to-face sessions with staff;
2. group face-to-face sessions with all case management staff; or

3. sessions in which the supervisor accompanies a case manager to meet with recipients.

**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 30:1039 (May 2004).

**Chapter 107. Reimbursement**

**§10701. Reimbursement**

A. The reimbursement methodology for optional targeted and waiver case management services is a fixed monthly rate for the provision of the core elements of case management services as described in §10301 or in acceptance with the terms of contract by the department.

B. A technical amendment (Public Law 100-617) in 1988 specifies that the Medicaid Program is not required to pay for case management services furnished to consumers without charge. This is in keeping with Medicaid's longstanding position as the payer of last resort. With the statutory exceptions of case management services included in the Individualized Education Programs (IEPs) or Individualized Family Service Plans (IFSPs) and services furnished through Title V public health agencies, reimbursement by Medicaid payment for case management services cannot be made:

1. when another third party payer is liable; nor
2. for services for which no payment liability is incurred.

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

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing LR 30:1040 (May 2004).

**Chapter 109. Infants and Toddlers**

**§10901. Introduction**

A. This Chapter authorizes federal financial participation in the funding of Optional Targeted Case Management service for Title XIX eligible infants and toddlers who are ages birth through 2 inclusive (0 - 36 months) who have established medical conditions as defined in Part H of the Individuals with Disabilities Education Act. These criteria are further defined in Chapter 34 of the *Code of Federal Regulations*, Section 303.300.

B. Purpose. To assist eligible recipients in development skills and knowledge to enable them to effectively access and utilize:

1. medical care;
2. social services;
3. educational services; and
4. other service delivery systems.

C. Definitions

*Family Service Coordination*—case management services which assist with individuals eligible under the plan in gaining access to needed medical, social, educational, and other services.

*Individualized Family Service Plan (IFSP)*—a written plan that is developed jointly by the family and service providers which identifies the necessary services to enhance the development of the child as well as the family's capacity to meet the needs of their child. The *IFSP* must be based on the multidisciplinary evaluation and assessment of the child and the family's identification of their strengths and needs. The initial *IFSP* must be developed within 45 days following

the referral to the child search coordinator with periodic reviews conducted at least every six months and an annual evaluation to review and revise the *IFSP* as appropriate.

*Multidisciplinary Evaluation (MDE)*—the involvement of two or more disciplines or professions in the provision of integrated and coordinated diagnostic procedures to determine a child's eligibility for early intervention services. The evaluation must include all major developmental areas including cognitive development, physical development including:

- a. vision;
- b. hearing and communicative development;
- c. emotional development;
- d. self help skills;
- e. the assessment of the child's unique needs; and
- f. the family's identification of their strengths and needs as related to enhancing the development of the child.

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

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing LR 30:1040 (May 2004).

**§10903. Staff Qualifications**

A. The provider must ensure that Medicaid-funded family service coordination services for eligible beneficiaries are provided by qualified individuals who meet the following licensure, education, and experience requirements:

1. bachelor's/master's degree in health or human services or related field; and
2. two years post bachelor's/master's degree experience in a health or human services field, (master's degree in social work, or special education with certification in noncategorical preschool handicapped or other certified areas with emphasis on infants, toddlers and families may be substituted for the required two years of experience); or
3. nurse registered and licensed in the state; and
4. two years experience in pediatric, public health or community nursing.

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

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing LR 30:1040 (May 2004).

**§10905. Staff Training**

A. The provider must ensure that Medicaid-funded family service coordination services for eligible beneficiaries are provided by qualified individuals who meet the following training requirements:

1. satisfactory completion of at least 16 hours of orientation prior to performing any family service coordination tasks and an additional 24 hours of related training during the first 90 days of employment. The 16 hours of orientation cover the following subjects:

Agency Specific Training Eight Hours	
1 hour	Child identification abuse reporting law, emergency and safety procedures
3 hours	Facility personnel policy
4 hours	Orientation to agency policy, including billing and documentation
Childnet Specific Training Eight Hours	
1 hour	Components of the ChildNet system
1 1/2 hours	Orientation to family needs and participation

2 hours	Interagency agreement/focus and team building
1 hour	Early intervention services (definition and resources)
1 hour	Child search and family service coordinator roles and responsibilities
1 1/2 hours	Multidisciplinary evaluation (MDE) and individualized Family service plan (IFSP) overview.

2. The 24 hours of training to be completed within the first 90 days shall cover the following advanced subjects:

- a. state structure for ChildNet, Child search and early intervention service programs;
- b. child search and family service coordinator roles and responsibilities in depth;
- c. multidisciplinary evaluation (MDE) in depth;
- d. procedural safeguards and complaint procedures;
- e. family perspective, including the grieving process;
- f. cultural diversity;
- g. communication with parents and professionals;
- h. family empowerment and advocacy;
- i. resources, including adaptation of resources to the child's needs; and
- j. arranging access for families to support systems, including informal systems.

B. In-service training specific to ChildNet is to be arranged and coordinated by the regional infant and toddler coordinator and specific training content shall be approved by a subcommittee of the state Interagency Coordinating Council, including members from at least the Medicaid agency and the Department of Education. Advanced training in specific subjects (i.e., multidisciplinary evaluations and individualized family service plans) shall be completed by the new family service coordinator prior to assuming those duties.

C. The provider must ensure that each family service coordinator has completed the required orientation and advanced training during the first 90 days of employment and at least 40 hours of approved in-service education in family service coordination and related areas annually.

D. The provider must ensure that family service coordinators are supervised by qualified individuals who meet the following licensure, education, experience, training, and other requirements:

1. satisfactorily completion of at least the 40 hours of family service coordination and related orientation required of family service coordinators during the first 90 days of employment before assuming supervision of any family service coordination;
2. supervisors must also complete 40 hours of in-service training each year on such subjects as:
  - a. family service coordination;
  - b. supervision; or
  - c. administration.

E. The provider must sign a notarized letter of assurance that the requirements of Louisiana Medicaid are met.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing LR 30:1040 (May 2004).

## Chapter 111. Nurse Family Partnership Program

### §11101. Introduction

A. Providers of nurse home visits for first-time mothers case management services must provide home visit services for eligible recipients in all the following parishes of the Department of Health and Hospitals (DHH) administrative regions:

1. Baton Rouge (2);
2. Thibodaux (3);
3. Lafayette (4);
4. Lake Charles (5);
5. Alexandria (6);
6. Shreveport (7); and
7. Monroe (8).

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 30:1041 (May 2004).

### §11103. Recipient Qualifications

A. Medicaid recipient must not be beyond the twenty-eighth week of pregnancy and must attest that she meets one of the following definitions of a first-time mother in order to receive nurse home visits case management services. The recipient:

1. is expecting her first live birth, has never parented a child, and plans on parenting this child; or
2. is expecting her first live birth, has never parented a child and is contemplating placing the child for adoption; or
3. has previously been pregnant, but has not delivered a child because of an abortion or miscarriage; or
4. is expecting her first live birth, but has parented stepchildren or younger siblings; or
5. had previously delivered a child, but her parental rights were legally terminated within the first six months of that child's life; or
6. has delivered a child, but the child died within the first six months of life.

B. The following will be required as verification of first-time mother status:

1. a physician's statement;
2. medical records;
3. legal documents, or birth and death certificates.

C. After the birth of the child, the focus of nurse home visit for first-time mothers case management is transferred from the mother to the child and services may continue until the child's second birthday. However, recipients may not receive more than one type of Medicaid funded case management at a time. To incorporate the child's needs into the plan of care, a complete reassessment and an update of the comprehensive plan of care must be completed within six weeks of the delivery and 30 days prior to the child's first birthday. If during the reassessment it is determined that the child qualifies for CHILDNET and Infants and Toddlers case management, the nurse home visit case manager shall transfer the child to the Infants and Toddlers Program.

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 30:1041 (May 2004).

### §11105. Staff Qualifications

A. Case managers and supervisors providing services to this targeted population must meet the following educational qualifications:

1. possession of a license or temporary permit to practice professional nursing in the state of Louisiana; and
2. certification of training in the David Olds Prenatal and Early Childhood Nurses Home Visit Model.

B. In addition, a supervisor must have one year of professional nursing experience. A masters degree in nursing or public health may be substituted for the required one year of professional nursing experience for the supervisor.

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 30:1042 (May 2004).

### Chapter 113. Early, Periodic Screening, Diagnosis and Treatment

#### §11301. Introduction

A. This Early, Periodic Screening, Diagnosis and Treatment (EPSDT) targeted population shall consist of recipients who are between the ages of 0 and 21 years old, on the Request for Services Registry, and meet the specified eligibility criteria. The point of entry for targeted EPSDT case management services shall be the Office of Citizens with Developmental Disabilities (OCDD) regional offices. However, for those recipients under 3 years of age, case management services will continue to be provided through Childnet. This new targeted population shall be served by agencies who have accepted the department's amendment to their existing contract.

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 30:1042 (May 2004).

#### §11303. Recipient Qualifications

A. In order to be eligible to receive case management services, the EPSDT recipient must be between the age of 0 and 21 and meet one of the following criteria.

1. placement on the Request for Services Registry on or after October 20, 1997, and have passed the OCDD Diagnosis and Evaluation (D&E) process by the later of October 20, 1997, or the date they were placed on the Request for Services Registry; or

2. placement on the Request for Services Registry on or after October 20, 1997, but did not have a D&E by the later of October 20, 1997, or the date they were placed on the Request for Services Registry. Those recipients in this group who subsequently pass or passed the D&E process are eligible for these targeted case management services. For those who do not pass the D&E process, or who are not undergoing a D&E may still receive case management services if they meet the definition of a person with special needs.

*Special Needs*Ca documented, established medical condition, as determined by a licensed physician, that has a high probability of resulting in a developmental delay or that gives rise to a need for multiple medical, social, educational and other services. In the case of a hearing impairment, the

determination of special needs must be made by a licensed audiologist or physician.

3. Documentation that substantiates that the EPSDT recipient meets the definition of special needs for case management services includes, but is not limited to:

- a. receipt of special education services through the state or local education agency; or
- b. receipt of regular services from one or more physicians; or
- c. receipt of or application for financial assistance such as SSI because of a medical condition, or the unemployment of the parent due to the need to provide specialized care for the child; or
- d. a report by the recipient's physician of multiple health or family issues that impact the recipient's ongoing care; or
- e. a determination of developmental delay based upon:
  - i. the Parents' Evaluation of Pediatric Status;
  - ii. the Brigrance Screens;
  - iii. the Child Development Inventories;
  - iv. Denver Developmental Assessment; or
  - v. any other nationally-recognized diagnostic tool.

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 30:1042 (May 2004).

### Chapter 115. High Risk Pregnant Women

#### §11501. Introduction

A. Case management services are provided to pregnant women in need of extra perinatal care, subject to Title XIX limitations. Provision of such services enable recipients to receive multiple health/social/informal services (on an inpatient or an outpatient basis) which the recipient is unable to arrange without assistance. These services shall be limited to certain geographical areas in accordance with the Title XIX State Plan agreement with the Centers for Medicare and Medicaid Service. A recipient will not be forced under this provision to receive case management services for which she may be eligible.

B. Case management services under this provision will not duplicate payments made to public agencies or private entities under other program authorities for this same purpose.

C. Maximum units of service covered by this provision per individual per calendar year shall be limited in accordance with the Title XIX State Plan agreement with the Centers for Medicare and Medicaid Service (CMS).

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 30:1042 (May 2004).

#### §11503. Recipient Qualifications

A. A recipient of services must:

1. have been determined medically eligible by the Medicaid agency for extra perinatal care;
2. require services from multiple health /social/informal services providers;
3. be unable to arrange the necessary services.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing LR 30:1042 (May 2004).

### **§11505. Provider Participation**

A. In addition to the requirements listed in §10501, case management agencies serving high risk pregnant women must meet the following additional participation requirements:

1. have been certified by the Office of Public Health as having adequate programming and administration to provide the service effectively and efficiently.
2. insure that all case management services are provided by individuals who are licensed to practice in Louisiana or individuals under the supervision of licensed professional staff.
3. demonstrate successful experience with the coordination and/or delivery of services for pregnant women;
4. have a working relationship with a local obstetrical provider and acute care hospital that provides deliveries for 24-hour medical consultation; and
5. have a multidisciplinary team which meet the licensure and perinatal experience requirements applicable for services to high-risk pregnant women. This team shall consist at a minimum, of the following professionals:
  - a. physician;
  - b. primary nurse associate or certified nurse manager;
  - c. registered nurse;
  - d. social worker; and
  - e. nutritionist.

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 30:1043 (May 2004).

## **Chapter 117. Mentally Retarded/Developmentally Disabled**

### **§11701. Introduction**

A. Case management services are provided to mentally retarded/developmentally disabled (MR/DD) individuals, subject to Title XIX limitations. Provisions of such services enable recipients to receive multiple health/social/informal services (on an inpatient or an outpatient basis) which the recipient is unable to arrange without assistance. The maximum number of units of service covered by this provision per individual per calendar year shall be limited in accordance with the Title XIX State Plan agreement with the Centers for Medicare and Medicaid Service (CMS).

B. The recipient will not be forced to receive case management services for which he or she may be eligible. Case management services will not be used to restrict the access of the recipient to other services available under the State Plan.

C. Payment for case management services will not duplicate payments made to public agencies or private entities under other program authorities for this same purpose. Providers of case management services will not be reimbursed for specific services provided to individuals in institutional settings when those services are included in the per diem rate for the institution.

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 30:1043 (May 2004).

## **Chapter 119. HIV Disabled**

### **§11901. Introduction**

A. Case Management Services are provided to maximize the health of HIV disabled individuals. The recipient must acquire services from multiple health/social/informal services providers. Case management services under this provision will not be used to restrict the access of the recipient to other services available under the State Plan.

B. In accordance with the Title XIX State Plan agreement with the Centers for Medicare and Medicaid Service (CMS).

1. the maximum number of units of service covered by this provision per individual per calendar year shall be limited; and
2. services shall be limited to certain geographical areas.

C. The recipient may receive services on an inpatient or an outpatient basis and will not be forced under this provision to receive case management services for which he or she may be eligible. Providers of case management services under this provision will not be reimbursed for specific services provided to individuals in institutional settings when those services are included in the per diem rate for the institution.

D. Payment for case management services under this provision will not duplicate payments made to public agencies or private entities under other program authorities for this same purpose.

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 30:1043 (May 2004).

### **§11903. Recipient Requirements**

A. Service will be reimbursed when provided to HIV disabled individuals subject to the provisions below.

1. The recipient must have reached, as documented by a physician, a level 70 on the Karnofsky scale at some time during the course of HIV infection.

2. The recipient must be unable to arrange the necessary services.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing LR 30:1043 (May 2004).

### **§11905. Provider Requirements**

A. In addition to the requirements listed in §10501, the provider of case management services must:

1. have one or more documented years providing case management services to HIV disabled individuals;
2. sign a notarized letter of assurance that the requirements of Louisiana Medicaid will be met.

B. In order to be reimbursed by the state, the provider of case management must satisfactorily complete a one-day training approved by the department's HIV program office if serving HIV-infected individuals.

C. The individual assigned as the case manager shall maintain contact with the recipient or his/her legal

representative and these contacts shall be documented in progress notes and address the efficacy of the care plan.

**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 30:1043 (May 2004).

Frederick P. Cerise, M.D., M.P.H.  
Secretary

0405#013

## **RULE**

### **Department of Revenue Policy Services Division**

#### **Exemption for Ships and Ships' Supplies (LAC 61:I.4403)**

Under the authority of R.S. 47:305.1 and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, has amended LAC 61:I.4403 relative to the exemption for ships and ships' supplies.

These amendments are necessary due to changes made to R.S. 47:305.1 by Acts 40 and 41 of the 2002 Regular Legislative Session and legal jurisprudence since the Rule's adoption. These amendments supersede any internal Policy and Procedure Memoranda or other oral or written instructions issued prior to Acts 40 and 41.

#### **Title 61**

#### **REVENUE AND TAXATION**

#### **Part I. Taxes Collected and Administered by the Secretary of Revenue**

#### **Chapter 44. Sales and Use Tax Exemptions**

#### **§4403. Ships and Ships' Supplies**

A. To qualify for exemption under R.S. 47:305.1(A), materials, machinery, and equipment that become component parts of ships, vessels, or barges of 50 tons load displacement and over, built in Louisiana, must be added during construction or reconstruction. Materials, machinery, and equipment that replace worn components are not exempt under R.S. 47:305.1(A).

B. Reconstructions qualify for exemption under R.S. 47:305.1(A) if they:

1. modify the craft's function, such as conversion of a deck barge to a crane barge; or
2. restore the craft to seaworthiness following its destruction by sinking, collision, or fire.

C.1. For the purposes of the exemption provided in R.S. 47:305.1(B), vendors may assume that ships' supplies and materials delivered to the dock will be loaded upon the vessel for use or consumption in the maintenance of the vessel.

2. The exemption provided in R.S. 47:305.1(B) for repair services performed upon ships and vessels operating exclusively in foreign or interstate coastwise commerce also

applies to component parts removed from those ships, vessels, or barges and repaired elsewhere.

D. For the purposes of the exemption granted under R.S. 47:305.1, the following definitions apply.

**Commerce**—the transporting of goods or persons by ship, vessel, or barge exclusively to carry on a trade or business.

**Load Displacement**—the weight of the volume of water displaced by a ship, vessel, or barge when loaded to its maximum capacity.

**Owner or Operator**—any person who has title to, possession of, or control over the operation of any ship, vessel, or barge defined in R.S. 47:305.1.

**Ship, Vessel, or Barge**—any craft used primarily for transporting persons or property by water, or any craft designed or altered to perform specialized marine-related services, such as dredging, fleeting, geological surveying, cargo transferring, and which possesses all of the following characteristics:

- a. performs its services in navigable waters;
- b. is capable of being moved by floatation from one location to another in navigable waters; and
- c. is registered as a vessel with the United States Coast Guard or is eligible for registration.

**Ships' Supplies and Materials**—all tangible personal property loaded on and used or consumed in the maintenance or operation of a ship, vessel, or barge and its crew.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 47:305.1.

**HISTORICAL NOTE:** Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by Department of Revenue, Policy Services Division, LR 30:1044 (May 2004).

Raymond E. Tangney  
Senior Policy Consultant

0405#046

## **RULE**

### **Department of Revenue Policy Services Division**

#### **Issuance and Cancellation of a Lien; Fees (LAC 61:I.5302)**

Under the authority of R.S. 47:1511, R.S. 47:1577, and R.S. 47:1578 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, has amended LAC 61:I.5302 relative to the release of real property from the effect and operation of the recorded lien in cases where the tax, penalty, or interest secured by the lien has not been paid.

The Rule conforms LAC 61:I.5302.C.3 to R.S. 47:1578(B)(2), by providing that the Secretary of Revenue may release any real property from the lien when the value of the tax debtor's remaining real property upon which the lien will remain is at least equal to the amount of the

remaining tax obligation, including penalties, interest, and costs plus the amount of all liens upon the remaining real property that have priority over the state tax lien.

**Title 61**

**REVENUE AND TAXATION**

**Part I. Taxes Collected and Administered by the Secretary of Revenue**

**Chapter 53. Miscellaneous Fees**

**§5302. Issuance and Cancellation of a Lien; Fees**

A. - C.2. ...

3. when the lien on the taxpayer's remaining real property is valued at not less than the amount of the remaining tax obligation, including all penalties, interest, and other costs incurred, plus the amount of all prior liens on the remaining property. This provision is subject to approval by the Board of Tax Appeals;

C.4. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:295, R.S. 47:1511, R.S. 47:1577, and R.S. 47:1578.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 28:347 (February 2002), amended LR 30:1045 (May 2004).

Cynthia Bridge  
Secretary

0405#025

**RULE**

**Department of Revenue  
Policy Services Division**

Manufactured and Mobile Home  
Settlement Fund Administration  
(LAC 61:I.4313)

Under the authority of Act 1212 of the 2001 Regular Legislative Session and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, has repealed LAC 61:I.4313, which established procedures for the administration of the Manufactured and Mobile Home Settlement Fund.

Act 1212 of the 2001 Regular Legislative Session provided for the payment of settlements from lawsuits against the state related to the state sales and use taxes collected on purchases of manufactured and mobile homes. It also created the Manufactured and Mobile Home Settlement Fund to provide for the payment of claims filed by purchasers who were not a party to the lawsuits on manufactured and mobile home purchases between January 1, 1998, and June 30, 2001. The Secretary of Revenue adopted LAC 61:I.4313 to carry out the act's provisions. Effective September 2003, all settlements and claims had been paid and all monies in the Manufactured and Mobile Home Settlement Fund had been expended in accordance with Act 1212. Therefore, the regulation was repealed.

**Title 61**

**REVENUE AND TAXATION**

**Part I. Taxes Collected and Administered  
by the Secretary of Revenue**

**Chapter 43. Sales and Use Tax**

**§4313. Administration of Claims Against the  
Manufactured and Mobile Home Settlement  
Fund as Required by Act 1212 of the 2001  
Regular Legislative Session**

Repealed.

AUTHORITY NOTE: Promulgated in Accordance with Acts 2001, No. 1212 and R.S. 47:301.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 27:2261 (December 2001), repealed LR 30:1045 (May 2004).

Cynthia Bridges  
Secretary

0405#047

**RULE**

**Department of Revenue  
Policy Services Division**

Suspension, Revocation, or Denial  
of Hunting and Fishing Licenses  
(LAC 61:I.1351)

Under the authority of R.S. 47:296.3 and 1511 and in accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, has adopted LAC 61:I.1351 pertaining to the suspension, revocation, or denial of the issuance of hunting and fishing licenses for failure to pay individual income tax.

Revised Statute 47:296.3, entitled "Suspension, Revocation, or Denial of Hunting and Fishing Licenses," provides a mechanism for suspending, revoking, and denying the issuance of a taxpayer's hunting and fishing licenses if the Department of Revenue has a final and nonappealable assessment or judgment against an individual in excess of \$500. This regulation provides the procedures necessary to administer the provisions of this statute.

**Title 61**

**REVENUE AND TAXATION**

**Part I. Taxes Collected and Administered by the  
Secretary of Revenue**

**Chapter 13. Income: Individual**

**§1351. Suspension, Revocation, and Denial of Hunting  
and Fishing Licenses**

A. An individual's hunting and fishing licenses will be suspended, revoked, or denied if the Department of Revenue has a final and nonappealable individual income tax assessment or judgment against the individual in excess of \$500 exclusive of penalty, interest, costs, and other charges.

B. Exceptions

1. If the taxpayer has filed for bankruptcy, then the provisions of this regulation will not apply.



2. An assessment or judgment will not be considered final and nonappealable for purposes of this regulation if, for the applicable tax period:

- a. the taxpayer is in litigation with the department;
- b. the taxpayer is being audited by the department;

or

- c. correspondence is pending.

C. Responsibilities

1. The Department of Revenue is responsible for the following:

- a. properly identifying the affected taxpayer;
- b. accurately notifying the Department of Wildlife and Fisheries of the taxpayer's identity; and
- c. timely notifying the Department of Wildlife and Fisheries if the taxpayer pays the assessment or judgment and regains eligibility for a hunting or fishing license.

2. The Department of Wildlife and Fisheries is responsible for the following:

- a. suspending, revoking or denying hunting and fishing licenses once notified of a taxpayer's identity by the Department of Revenue; and
- b. issuing or re-issuing hunting and fishing licenses to taxpayers who have paid their tax debts once notified of this fact by the Department of Revenue.

D. Taxpayer Notification

1. Before the notice of hunting and fishing licenses suspension, revocation, or denial is sent to the Department of Wildlife and Fisheries, the taxpayer will be mailed written notice.

2. The notice will inform the taxpayer that his hunting and fishing licenses will be suspended, revoked, or issuance denied until full payment of the final and nonappealable assessment or judgment is made or until the taxpayer enters into an installment agreement with the Department of Revenue.

3. The notice will be mailed to the address on record and it will be presumed that the taxpayer has received the notice if it is not returned as "Undeliverable."

4. If a taxpayer defaults on a department authorized installment payment plan, no further notice of suspension, revocation, or denial of the issuance of the taxpayer's hunting and fishing licenses will be required.

E. Notification to the Department of Wildlife and Fisheries

1. The Department of Revenue will notify the Department of Wildlife and Fisheries of the name, social security number, and address of the taxpayer for whom the hunting and fishing licenses are required to be suspended, revoked, or issuance denied.

2. The suspension and revocation will remain in effect until the Department of Wildlife and Fisheries is notified otherwise by the Department of Revenue.

3. The Department of Revenue will notify the Department of Wildlife and Fisheries of the name, social security number, and address of the taxpayer for whom the hunting and fishing licenses are to be issued or re-issued.

4. Notifications may be by secured electronic transmission or by magnetic tapes, cartridges, or other electronic media.

5. Notifications will be made weekly unless circumstances warrant a more frequent time schedule, such as the circumstances described in Subsection E.

F. If the taxpayer pays the assessment or judgment in person, notice will be given to the Department of Wildlife and Fisheries to remove the suspension, revocation, or denial of the taxpayer's hunting and fishing licenses from their records. Notice to the Department of Wildlife and Fisheries will be effected as follows:

1. Department of Revenue personnel may fax a clearance to the Department of Wildlife and Fisheries indicating that the assessment or judgment has been paid; or

2. a letter from the secretary or the secretary's designee indicating that the assessment or judgment has been paid may be issued to the taxpayer for presentation to the Department of Wildlife and Fisheries.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:296.3 and 1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 30:1045 (May 2004).

Cynthia Bridges  
Secretary

0405#048

**RULE**

**Department of the Treasury  
Parochial Employees' Retirement System**

Internal Revenue Code Provisions  
(LAC 58:XI.507)

Editor's Note: Section 507 was promulgated on page 510 in the March 2004 edition of the *Louisiana Register*, and is being repromulgated in order to incorporate §103, Definitions.

**Title 58  
RETIREMENT**

**Part XI. Parochial Employees' Retirement System  
Chapter 5. Scope of Benefits**

**§507. Transfer of Benefits**

A. This Section applies to distributions made on or after January 1, 1993. Notwithstanding any provisions of the plan to the contrary that would otherwise limit a *distributee's* election under this Section, a *distributee* may elect, at the time and in the manner prescribed by the plan administrator, to have any portion of an *eligible rollover distribution* paid directly to a retirement plan specified by the *distributee* in a *direct rollover*.

B. If a distribution is one to which Sections 401(a)(11) and 417 of the Internal Revenue Code (see 26 U.S.C. 401 et seq.) do not apply, such distribution may commence less than 30 days after the notice required under Section 1.411(a)-11(c) of the Federal Income Tax Regulations is given, provided that:

1. the plan administrator clearly informs the participant that the participant has a right to a period of at least 30 days after receiving the notice to consider the decision of whether or not to elect a distribution (and, if applicable, a particular distribution option); and

2. the participant, after receiving the notice, affirmatively elects a distribution.

C. The following definitions shall apply.

*Direct Rollover*—A payment by the plan to the *eligible retirement plan* specified by the *distributee*.

*Distributee* includes an employee or former employee. In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternative payee under a qualified domestic relations order, as defined in Internal Revenue Code Section 414(p), are *distributees* with regard to the interest of the spouse or former spouse.

*Eligible Retirement Plan* Can Individual Retirement Account described in Internal Revenue Code Section 408(a), an individual retirement annuity described in Section 408(b), an annuity plan described in Internal Revenue Code Section 403(a), or a qualified trust described in Internal Revenue Code Section 401(a), that accepts the *distributee's eligible rollover distributions*. However, in the case of an *eligible rollover distribution* to the surviving spouse, an *eligible retirement plan* is an Individual Retirement Account or individual retirement annuity.

*Eligible Rollover Distribution* Any distribution of all or any portion of the balance to the credit of the *distributee*, except that an *eligible rollover distribution* does not include:

a. any distribution that is one of a series of substantially equal periodic payments, not less frequently than annually, made for the life, or life expectancy, of the

*distributee* or the joint lives, or joint life expectancies, of the *distributee* and the *distributee's* designated beneficiary, or for a specified period of 10 years or more;

b. any distribution to the extent such distribution is required under Internal Revenue Code Section 401(a)(9);

c. the portion of any distribution that is not includable in gross income, determined without regard to the exclusion for net unrealized appreciation with respect to employer securities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1931.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Parochial Employees' Retirement System, LR 30:510 (March 2004), repromulgated LR 30:1046 (May 2004).

Thomas B. Sims  
Administrative Director  
and  
Dainna S. Tully  
Assistant Director

0405#014

# Notices of Intent

## NOTICE OF INTENT

### Board of Elementary and Secondary Education

#### Bulletin 1872C Extended School Year Program Handbook

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement *Bulletin 1872C Extended School Year Program Handbook*. Bulletin 1872 will be printed in codified format as Part LVII of the Louisiana Administrative Code. This document replaces any previously advertised versions. The *Extended School Year Program (ESYP) Handbook* is the regulatory guidance for the provision of special education and related services to students with disabilities in accordance with an Individualized Education Program beyond the normal school year of the LEA and at no cost to the parents of the student. The publication as a notice of intent is necessary because the handbook has been codified. Louisiana's Extended School Year Handbook provides information regarding guidelines related to the eligibility of students for extended school year programming and planning considerations, and district responsibilities. The legal basis for extending the school year for certain students with disabilities is stated in §447 of *Bulletin 1706C Regulations for Implementation of the Children with Exceptionalities Act* (R.S.17:1941 et seq.) and the Individual's with Disabilities Education Act (IDEA) §300.309.

These decisions have reaffirmed the federal legislative intent to ensure an appropriate education based on the student's needs and on the individually designed educational program to meet those needs.

## Title 28 EDUCATION

### Part LVII. Bulletin 1872C Extended School Year Program Handbook

#### Chapter 1. Purpose

##### §101. Introduction

A. Extended School Year Program (ESYP) is the provision of special education and related services to students with disabilities in accordance with an IEP beyond the normal school year of the LEA and at no cost to the parents of the student. The legal basis for extending the school year for certain students with disabilities is stated in §447 of *Bulletin 1706C Regulations for Implementation of the Children with Exceptionalities Act* (R.S.17:1941 et seq.) and in court decisions relative to the 180-day rule. These decisions have reaffirmed the federal legislative intent to ensure an appropriate education based on the student's needs and on the individually designed educational program to meet those needs.

B. The Louisiana Department of Education and the Advocacy Center for the Elderly and Disabled concluded the *Laura I. Consent Decree* in 1994. As a result of the *Laura I.*

*Consent Decree*, the Louisiana Department of Education established program standards for extended school year services. All local education agencies must utilize specific eligibility criteria to determine the need for ESYP and program planning guidelines to design, implement and evaluate the extended school year program.

C. The ESYP eligibility criteria were developed to ensure that students have equal access to extended school year services. These criteria were effective as of October 1, 1990. The ESYP planning guidelines were developed to ensure that ESYP services are based on the individually identified needs of students with disabilities. The program standards were effective as of January 1, 1991.

D. This handbook, Extended School Year Program, consolidates Bulletins 1870: Determining Eligibility for Extended School Year Programs (April 2, 1990), and 1871: Program Standards for Extended School Year Program (January 1, 1991). This consolidated handbook also includes revisions made during the spring of 1994 once all local education agencies had exited from the consent decree. Further revisions were made during the summer of 2002 and 2004. The current handbook provides the guidelines on eligibility determination, design, implementation, and evaluation of the extended school year program.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

### Chapter 3. Program Standards

#### §301 Overview

A.1. The extended school year program standards must be used in the development, implementation, and evaluation of ESYP. The standards encompass four major components of extended school year programming:

- a. eligibility determination;
- b. planning;
- c. implementation; and
- d. evaluation.

2. Components and accompanying standards are listed on the next page.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

#### §303. Eligibility Determination [Component One]

A. Local education agencies shall ensure that ESYP screening procedures and eligibility determinations are completed in accordance with State eligibility criteria guidelines. [Standard 1]

B. Parents shall be advised of and involved in the ESYP screening process. [Standard 2]

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

#### §305. Planning [Component Two]

A. Local education agencies shall ensure that the ESYP Program of each student is individually designed, reflects

high priority needs, and includes services necessary to conduct the program. [Standard 1]

B. Parents shall be given opportunities to be involved actively in the design and implementation of the ESYP. [Standard 2]

C. Local education agencies shall ensure that there is ongoing communication between regular school year staff and ESYP staff sufficient to ensure program continuity. [Standard 3]

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

### **§307. Implementation [Component Three]**

A. Local education agencies shall continue to address LRE factors, including integration with non-disabled persons, in the implementation of the ESYP program. [Standard 1]

B. Local education agencies shall ensure that the services listed on the ESYP IEP are provided. [Standard 2]

C. Local education agencies shall ensure that instructional activities conducted during ESYP are documented. [Standard 3]

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

### **§309. Evaluation [Component Four]**

A. Local education agencies shall ensure that instructional personnel measure and report student outcomes. [Standard 1]

B. Local education agencies shall evaluate ESYP outcome data to determine program effectiveness. [Standard 2]

C. Local education agencies shall report ESYP data in accordance with state mandated procedures. [Standard 3]

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

## **Chapter 5. Eligibility Determination Procedures**

### **§501 Overview**

A. The ESYP Eligibility Criteria must be used in determining eligibility for extended school year services. Students who meet the following conditions prior to the ESYP screening date must be screened annually to determine their eligibility for ESYP: are ages 3-21<sup>1</sup>, are classified with a disability according to the *Pupil Appraisal Handbook*; have a current evaluation; and have a current IEP.

B. Students must be screened for the ESYP every year, regardless of previous participation or nonparticipation in the ESYP. The flow chart on the following page indicates how the screening, eligibility determination, programming, and implementation process takes place. NOTE: Students on Interim IEPs must be screened for ESYP based on the suspected disability.

C. As indicated by the ESYP flow chart, the screening process is actually the ongoing process of instruction and assessment of student performance and/or data collection throughout the regular school year. The IEP team, (teacher, speech-language pathologist, OT, PT, parent, social worker, etc.), provides instruction and collects data on the student's

performance. These data are used to determine whether there is a need for the ESYP. Regular data collection is necessary to provide a clear and accurate picture of the student's performance.

<sup>1</sup>The student's 3rd birthday is prior to the screening date or their 22nd birthday is after the screening date.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

### **§503. Annual IEP**

A. The IEP team discusses all pertinent criterion/criteria that the student may qualify for ESYP. The team identifies at least one of criterion as a possible area under which the student may need ESYP. Below are some guidelines to guide this decision:

1. Regression-Recoupment Criterion should be considered for any student expected to have a problem with regression-recoupment of skills. A regression-recoupment problem exists if there is a pattern of regression without timely recoupment, following breaks in instruction, in the performance of objectives most essential to the student's overall functioning. The Regression Recoupment Criterion may be used for any student receiving special education services but must be used for students classified with certain disabilities.

2. Critical Point of Instruction (CPI) 1 Criterion should be considered for students for which there is reason to suspect that there will be a loss of general education class(es)/time or increase in special education service time because of a lack of academic or social skill development.

3. Critical Point of Instruction (CPI) 2 Criterion should be considered for students for which there is reason to suspect that there will be a loss of significant progress made toward the acquisition and/or maintenance of a critical self-help, community access, or social/behavioral skill.

NOTE: CPI (1 and/or 2) is typically selected by default if the team does not suspect a need for ESYP along any of the other criterion. The teacher/instructional team is not prohibited from reviewing student performance (i.e., screening) for CPI or other criterion that were not originally targeted.

4. Self-Injurious Behavior Criterion should be considered for students who exhibit self-injurious behavior that is persistent, regular, and continuous.

5. Employment Criterion should be considered for students who are 16-21 years old and who are engaged in or expected to have paid employment prior to the ESYP screening date.

6. Transition Criterion should be considered for students who have a transition services plan and who are expected to exit the local education agency at the end of the school year.

7. Excessive Absences Criterion should be applied to students expected to have documented absences in excess of 25 days without the provision of hospital/homebound services because of a diagnosed health condition and as a result is expected to fail to make projected progress. It may not be possible to anticipate these conditions but this criterion should be considered during screening for students with 25 or more absences.

8. Late Entry Criterion should be applied to students who enter special education after January 1st (but prior to the ESYP screening date)

9. All applicable criterion/criteria must be checked in the ESY block on the IEP.

B. If Regression-Recoupment, Critical Point of Instruction (1 and 2) and/or Self-Injurious Behavior Criteria are selected:

1. The IEP Team decides which objectives to target (i.e., the "Determination of Essential Skills" checklist assists the team in determining the most important objectives for the student).

2. The IEP team discusses ways of collecting data and strategies for team functioning. The method of data collection will depend on the individual objective(s). Data may take the form of task analyses, checklists, grades in teacher gradebook, teacher/parent observation logs, etc.

C. In addition to these criterion specific action steps, the following actions must also be performed at every IEP.

1. The parent(s) is given a copy of the ESYP Fact Sheet and indicates receipt of this sheet by checking the "Parent Decisions" box on the Placement/Least Restrictive Environment page of the IEP.

2. The ESYP screening date is checked in the ESY block on the Program/Services page of the IEP. If the student's initial IEP date is after January 1 but prior to the screening date, he or she has two screening dates (i.e., the current and subsequent school years).<sup>1</sup>

<sup>1</sup>For children transitioning from ChildNet to Part B Services who have spring birthdays, the teacher/instructional staff must consider all applicable criteria including regression/recoupment, critical point of instruction, late entry into school, and extenuating circumstances. The need for information to determine ESYP eligibility should be addressed on or before the mandated transition meeting, which must be held 90 days before the child's third birthday.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

#### **§505. Ongoing Data Collection [Refer to the Specific Data Requirements and Criteria for the ESYP Criterion (Ia) Selected at the IEP]**

A. Student performance on goals and objectives on the IEP is monitored on an ongoing basis throughout the school year. The data collected (e.g., grades, progress reports, behavior checklists, task analyses, teacher observation logs, etc.) should indicate the progress the student makes toward acquisition of his or her goals and objectives.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

#### **§507. Screening and Decisions Regarding ESYP Eligibility [Did the Student Meet Criteria for ESYP?]**

A. The teacher collects data relevant to make a determination for ESYP eligibility. Prior to the screening date, if other team members have data that support the student's need for the ESYP, they must submit the data to the teacher with primary responsibility for IEP development.

B. The teacher/instructional personnel may begin to make eligibility decisions no earlier than March 15 each year; the last date for making eligibility decisions is the screening date (the first Friday after Easter). The ESYP screening date is the date by which all screening must be completed and eligibility decisions must be made. Between

March 15 and the ESYP screening date (the Friday after Easter) the student's teacher and/or instructional personnel examine student performance data and determine whether the student meets criteria for ESYP eligibility or not.

C. In addition to student data indicating a need for eligibility, many criterion areas require that ESYP would have a positive impact student performance/progress. A description of the impact of providing and withholding ESYP should be included with the documentation to support ESYP eligibility.

D. Review the sections of this handbook related to each criterion area for information regarding additional specific criteria requirements.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

#### **§509. Required Documentation**

A. Each criterion has a number of required elements that must be provided for any student determined eligible under that criterion. Please refer to the section for each criterion for all required documentation and information. Any data and/or information related to the eligibility decision should be in the student's file and/or provided to the LEA office regardless of whether the student met eligibility or not.

B. There are four mandatory forms:

1. ESY-IEP;

2. ESYP Fact Sheet provided to the parents at the annual IEP meeting;

3. ESYP Screening Determination Form. The teacher should complete and submit the ESYP Screening Determination Form to the Director/Supervisor of Special Education by the ESYP screening date; and

4. the Regression-Recoupment Summary Form (used for students considered under Regression-Recoupment criterion).

C. If the local education agency requires the Student Eligibility Review form, the teacher should complete it.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

#### **§513. Parental Notification and ESY-IEP**

A. The teacher should send the parents written notification of the screening results within 5 business days of the ESYP screening date.

B. For students found eligible for the ESYP, an ESY IEP is scheduled (not necessarily held) within 15 business days after the ESYP screening date. Every effort must be made to obtain parental participation. The same procedures are followed as for a review IEP (*Bulletin 1706*, §442 and §443). If parental participation cannot be obtained, the ESY IEP is developed and the parent(s)/guardian are notified and sent copies of documents.

C. For students found ineligible for ESYP, and the parent(s) disagrees with the decision, a meeting of the IEP team should be held to review the eligibility decision. If the data indicate the student is eligible or there is insufficient data to make a determination, the ESY-IEP should be developed. If the data supports the initial decision of ineligibility, the parent has the right to appeal the decision.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

### §513. Implementation of ESYP

A. An ESYP program should be implemented in accordance with the student's ESYP-IEP.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

### §515. After ESYP

A. All ESYP Instructional data and progress information should be reported to the regular school year IEP team. All appropriate data should be sent to the LEA Supervisor/Director of Special Education and/or the LEA representative responsible for submitting ESYP summary outcome data into LANSER. LANSER data should be entered by October 15.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

### §517. Eligibility Criteria

A. Seven criteria are used to determine a student's need for ESYP: Regression-Recoupment; Critical Point of Instruction; Self-Injurious Behavior; Employment; Transition; Excessive Absences ; and Late Entry.

B. There may be unusual situations or circumstances in which a student classified with a disability and enrolled in special education may need the ESYP but does not meet any of the eligibility criteria. In this case the teacher/instructional personnel may consider "Extenuating Circumstances." The purpose is to catch the student who meets the spirit, but not the letter, of the existing criteria.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

### §519. Regression-Recoupment Criterion

A. Students to be Considered

1. All students with disabilities enrolled in special education

2. This criterion must be used to screen students who have a classification of: moderately mentally disabled, severely mentally disabled, profoundly mentally disabled, deafblind, autism, multi-disabled, traumatic brain injury, and preschool students with disabilities.

3. The IEP team decides whether or not to use the Regression-Recoupment criterion for preschool students whose only classification is Speech or Language Impairment.

NOTE: The decision is made at the IEP meeting. The Regression-Recoupment criterion may be used to screen any other student classified with a disability at the discretion of the IEP team.

B. Why Regression-Recoupment? A student who exhibits a pattern of regression-recoupment problems (i.e., reverts to a lower level of functioning after a break in instruction and fails to regain the skill level in a reasonable length of time) may need ESYP to maintain his or her skill level to avoid having to restart a sequence of instruction after instructional breaks.

C. Why target objectives? Regression-Recoupment problems are demonstrated by looking for a pattern. The pattern may be across various skill areas or in only one skill

area. By selecting a minimum of four objectives across educational need areas most essential to the student's overall functioning and well-being, the IEP team will get a picture of whether or not there is a pattern of regression-recoupment problems in areas most important for that student.

D. Why collect data? Data must be collected to determine a student's performance on objectives. Examining the data before and after instructional breaks allows instructional personnel to determine whether the student has reverted to a lower level of functioning and to observe how long it takes the student to return to the previous functioning level.

E. Why over two breaks? By collecting data over two breaks, the teacher/instructional personnel will determine whether there is a pattern and whether the pattern is consistent over time.

F. Definitions

*Regression* To revert to a lower level of functioning after a break in instruction.

*Recoupment* To regain the level of functioning prior to the break in instruction.

*Target Objectives* Objectives on the student's IEP; data collected on these objectives must be examined in determining whether a pattern of regression-recoupment problems exist. A minimum of four objectives across the educational need areas most essential to the student's overall functioning must be targeted.

*Break in Instruction* A break of at least five consecutive instructional days.

*Holiday Break* A break of five or more instructional days (e.g., summer break, Thanksgiving, Christmas, Easter, spring break).

*Imposed Break* A break of five instructional days. When imposing a break, the IEP team must ensure the following:

- a. the student's health/well being is not endangered; and
- b. the break is based on the need to determine whether or not the student would retain the skill without daily intervention.

*Pre-Break Average* The average of three data points immediately before the break. If data are being collected two times/week, data collection could span a two-week period.

*Highest Post-Break Score* The highest level of performance the student attains within five data points following the break indicates whether the student has recouped the skill or has problems with regression-recoupment.

G Steps to applying the R-R Criterion

1. Annual IEP

a. The IEP team identifies the Regression-Recoupment Criterion as one possible area under which the student may qualify for ESYP.

b. The IEP team targets a minimum of four objectives that are the most essential to the student's overall functioning (the "Determination of Essential Skills" checklist assists the team in determining the most important objectives for the student). The number of each objective targeted for Regression-Recoupment is circled on the IEP Instructional Plan page(s).

c. When possible, an objective from each educational need area is targeted.

d. The IEP team discusses ways of collecting data and strategies for team functioning.

2. Ongoing Data Collection/Screening [Refer to the Regression-Recoupment Summary Form and Directions on File at the Department]

a. Student performance data are examined before and after a minimum of two instructional breaks (i.e., a break of at least five consecutive instructional days). The method of data collection will depend on the individual objective(s). Data may take the form of task analyses, checklists, grades in teacher gradebook, teacher/parent observation logs, etc.

b. Specifically, three data points prior to each break and five data points following each break will determine whether the student has any Regression-Recoupment problems.

NOTE: Examining a student's regression-recoupment performance over a summer break is not mandated, but is recommended. If the IEP team uses the summer break as one of the instructional breaks the difference of a 4 - week period is allowed to assess recoupment, since it is a much longer break.

3. Determine Whether There Is A Regression-Recoupment Problem such that the highest of the five post-break scores is lower than the average of the three pre-break scores.

a. Does it take longer than five data points to get back to the pre-break average?

i. No. If the student reached the pre-break average on any day within the first five data points, the student has recouped that skill. If normal/ongoing data collection for this skill/objective is two times/week, the recoupment period would span three weeks after the break.

ii. Yes. If the highest (or all five) post-break score(s) are lower than the pre-break average.

iii. The question asked on the Regression-Recoupment Summary Form is, "Was the highest post-break score lower than the pre-break average?"

4. Is the Student Eligible for ESYP?

a. Fill out the Regression-Recoupment Summary Form. Look at the RECOUPMENT question, and base the decision as to whether there is a pattern of regression-recoupment problems on the following:

i. YES. One objective has "yes" checked for RECOUPMENT over both breaks; and/or

ii. YES. There are the same or greater number of "yes" than "no" responses checked for Regression-RECOUPMENT problems across all skills and breaks.

iii. NO. Otherwise the student is not eligible for ESYP.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

## **§521. Critical Point of Instruction Criterion**

A. Students to be Considered

1. All students with disabilities enrolled in special education

B. Definitions

1. Students with disabilities may be eligible for the ESYP if there is evidence that extended service(s) is needed to allow the students to achieve a critical point of instruction in order to preclude one or more of the following from occurring:

a. Critical Point 1 (CPI-1). Any loss of general education class(es)/time or increase in special education service time because of a lack of academic or social skill development;

b. Critical Point 2 (CPI-2). A loss of significant progress made toward the acquisition and/or maintenance of a critical self-help, community access, or social/behavioral skill.

NOTE: In very simple terms, a *critical point of instruction* for these self-help, community access, and social/behavioral skills refers to the point at which a student has almost achieved the skill. The Educational Needs codes on the IEP form may or may not match the areas described above (i.e., "giving the cashier the correct amount of money" might be coded as Academic or Vocational, but the skill is aimed at enabling the student access to the community).

C. Steps to Applying the Critical Point of Instruction Criterion

1. Annual IEP

a. The IEP team identifies Critical Point of Instruction (CPI) Criterion as a possible area under which the student may need the ESYP.

b. The IEP team discusses all of the components of the criterion, different ways to collect data, and strategies for team functioning.

2. Ongoing Data Collection/Screening

a. The student's performance on goals and objectives on the IEP is monitored on an ongoing basis throughout the school year. The data collected (e.g., grades, progress reports, behavior checklists, task analyses, teacher observation logs, etc.) should indicate the progress the student makes toward acquisition of his or her goals and objectives.

3. Is the Student Eligible For ESYP?

a. Critical Point 1

i. The teacher/instructional personnel reviews all relevant data and determines whether there is a possibility that the student may be in danger of the loss of general education class time because of lack of academic or social skill development. In other words, any increase in special education service time must be examined.

(a). Is there any reason to suspect that the student is in danger of losing general education time for either academic or social reasons? Example1: the student may not be keeping up with work in the general education class and there may be the need for more special education support in the general education class. Example2: the student may be exhibiting behavior(s) that interfere with class participation; removing him/her because of the disruptive behaviors is being considered.

ii. Review Student Performance, Progress

(a). What do the data indicate? The teacher/instructional personnel should look at whether the student demonstrates adequate performance, is able to perform at grade level, is able to perform in reading related areas, or is exhibiting behavior that interferes with class participation, etc.

(b). Do other team members see the same performance pattern?

iii. Decision Making

(a). Is it possible that the ESYP could prevent the loss of time in general education class(es) or the increase in special education support/service(s) time?

(b). Why does the teacher/instructional personnel think the ESYP could prevent this loss of time? Why does the teacher/instructional personnel think the ESYP could not prevent this loss of time? Example1: could intensive work in specific need areas (drill in math, study and organization skills, phonics skill building, social skills training, etc.) make the difference? Example2: the ESYP may not make a difference because of the fact that the student is three grade levels below in reading, or the student has a lack of interest/motivation.

b. Critical Point 2

i. The teacher/instructional personnel reviews all relevant data and determines whether there is a possibility that the student may be in danger of losing significant progress made toward acquisition and/or maintenance of a critical self-help, community access, or social/behavioral skill.

(a). Are there any objective(s) on the student's IEP in the area of self-help skills (e.g., taking care of self and personal needs such as, toileting, dressing, body care/hygiene), community access (e.g., skills necessary for independent functioning in community situations such as, crossing streets, buying items at a store, using the telephone for information/emergency service), social/behavioral skills (e.g., communicating with others for needs/wants, controlling unacceptable behavior, such as hitting others or screaming in social/educational situations.)?

(b). Has the student almost achieved any of the objectives/skills in these areas?

ii. Review student performance, progress

(a). What do the data indicate? The student is *about at criterion*, or *almost has it*, or the student is *not close to criterion*.

(b). Do other team members have data on these skill areas? Are the skill(s) considered critical?

iii. Decision making

(a). Is the skill critical? Does the student need to acquire or maintain the skill now?

(b). Is the skill crucial because of the student's age?

(c). Is the skill important because it limits future program options?

(d). Is the skill significant because it limits future living/community integration opportunities?

(e). Based upon his or her past performance (rate) could the student acquire or maintain the self-help, community access, or social/behavioral skill(s) during the ESYP? Would the ESYP make a difference?

4. Required Documentation

a. Critical Point 1:

i. a description of the present conditions that make it likely that the student will lose time in general education class(es) or that the student will need an increase in special education support/service time; and

ii. an explanation of how ESYP services are likely to prevent the student from losing the general education class(es) time or increasing special education service time.

b. Critical Point 2:

i. a list of the skill(s)/objective(s) considered to be crucial or important for the student (*The Determination of Essential Skills Checklist*, on file at the department, contains list of skills);

ii. the student's current performance on the unmastered skill(s)/objective(s);

iii. information describing the crucial nature of the skill(s)/objective(s) and the impact of both providing and withholding the ESYP; and

iv. data/information which support the probability that the student could master/maintain the skill(s)/objective(s) during the ESYP.

NOTE: Critical point of instruction documentation form found on file at the department.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

**§523. Self-Injurious Behavior**

A. Students to be Considered All students with disabilities who are enrolled in special education and who exhibit self injurious behavior(s)

B. Definitions

1. Self-injurious behavior(s) is self-directed and negatively impacts the health and well-being of the student: (e.g., banging one's head, severely scratching oneself, pinching oneself, biting oneself, etc.) The behavior inflicts injury on self.

2. The self-injurious behavior(s) is consistent in nature (i.e., persistent, regular, or continuous).

3. Self-injurious behavior(s) requires intervention to ensure that there is a reduction in the behavior(s) or that appropriate social behavior is achieved or maintained.

4. Students who exhibit a self-injurious behavior(s) should have a goal(s) and objective(s) on the IEP to address the reduction and/or elimination of the self-injurious behavior(s).

NOTE: There may be instances when a self-injurious behavior is exhibited and no goal(s) and objective(s) are on the IEP to address the behavior. Documentation should describe the behavior, the baseline data, the intervention plan, results, and any revisions to the intervention, etc. However, it must be emphasized that these needs should be addressed on the student's IEP.

C. Steps to Applying Self-Injurious Behavior Criterion

1. Annual IEP

a. The IEP team identifies *Self-Injurious Behavior Criterion* as an area under which the student may need ESYP. The IEP team and/or the teacher/instructional personnel should use this criterion for the student who exhibits self-injurious behavior that is persistent, regular, and continuous.

b. There is a plan for conducting a functional behavioral assessment and developing a positive behavioral support plan.

2. Ongoing Data Collection/Screening

a. The behavior is clearly defined or described.

b. Baseline data are collected, including data pertaining to the frequency and/or duration of the behavior.

c. A positive behavioral support/intervention plan is designed and implemented by the IEP team.

d. The teacher/instructional personnel and/or parent(s) collect data to verify the success or failure of the intervention plan (e.g., frequency count, duration check).

e. Evaluate. If the data collected indicate that the intervention plan is not working to reduce the self-injurious behavior (usually about two weeks), the intervention plan



should be revised. The teacher should go back to steps 3 and 4.

3. Is the Student Eligible for ESYP?

a. By the ESYP screening date, the teacher/instructional personnel reviews all of the data related to the behavior and considers the following:

i. Questions

(a). Does the behavior result in self-injury?

(b). Is continued intervention necessary to reduce the self-injurious behavior(s)?

(c). Is continued intervention necessary to ensure that appropriate behavior is achieved or maintained?

ii. Review Student Performance, Progress

(a). What do the data indicate? Has the self-injurious behavior decreased, or is the student in need of continued intervention?

(b). Do other team members see the same pattern of behavior?

b. Decision Making

i. If the data indicate the student is in need of continued intervention to maintain appropriate behavior or reduce self-injurious behavior, the student is eligible for the ESYP.

4. Required Documentation

a. A description/definition of the behavior

b. Baseline data

c. A description of the intervention plan

d. Intervention data

e. If necessary, the revised intervention plan(s)

NOTE: Self-Injurious Behavior Documentation Form found on file at the department.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

**§525. Employment**

A. Students to be Considered

1. All students with disabilities enrolled in special education ages 16-22 who are employed by the screening date.

B. Definitions

*Paid Employment* that the student is paid commensurate/minimum wage or has an alternate wage certificate from the Department of Labor to be paid at a reduced level. In cases in which the student is paid a stipend (e.g., JTPA funds, cleaning tables in the teachers' lounge for \$0.25), the student is not eligible for the ESYP.

a. The student is employed at a job site, prior to the screening date, and that employment is expected to continue throughout the summer months.

b. There are vocational or employment goal(s) and objective(s) on the student's current IEP.

c. There is documented evidence that the student is in need of support in order to maintain paid employment.

C. Steps to Applying Employment Criterion

1. Annual IEP. The IEP team determines that the student may qualify for the ESYP via the Employment Criterion. This criterion is applied to students who are 16-22 years old and who are engaged in paid employment prior to the ESYP screening date. The job is expected to continue through the summer months.

2. Ongoing Data Collection/Screening. The student's performance on goals and objectives on the IEP is monitored

on an ongoing basis throughout the school year. The data collected on the vocational/employment goal(s) and objectives may take the form of task analyses, job performance checklists, information from job coach/supervisor, etc.

3. Is the Student Eligible for ESYP?

a. Questions

i. Does the student's current IEP address vocational/employment goals and objectives?

ii. Did the student begin paid employment prior to the ESYP screening date?

iii. Do the performance data indicate that the student will need support to maintain the paid employment throughout the summer?

b. Review Student Performance/Progress

i. What do the data indicate? How is the student's performance on the job? Is the student able to perform the job with or without support? What type of support is needed?

c. Decision Making

i. If the data indicate the need for support for the student to maintain the paid employment, then the student is eligible for ESYP.

4. Required Documentation

a. Documentation (i.e., job performance data) that the student is in need of support to maintain the paid employment.

b. Written statement from the employer indicating the intention to employ the student throughout the summer months.

c. A current IEP with vocational/employment goals and objectives.

NOTE: Employment criterion documentation form found on file at the Department.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

**§527. Transition**

A. Students to be Considered

1. All students with disabilities who are enrolled in special education, who have a transition services page on the IEP, and who are expected to exit the local education agency at the end of the school year

B. Definitions

1. Individualized Transition Services Page. The first page of the IEP lists the action steps that a person will need to accomplish in order to live, work, and recreate as an adult as independently as possible. It must be written by the time the student is age 16, or earlier if appropriate, and revised annually until the student exits the local education agency. Participants of the transition services page include the student, family members, and representatives of other agencies responsible for providing or paying for transition services.

2. Action Steps. Activities designed to promote movement from school to post school activities, including post-secondary education, vocational training, integrated employment, continuing and adult education, adult services, independent living, or community participation

C. Steps to Applying Transition Criterion

1. Annual IEP

a. The IEP team identifies the Transition Criterion as one possible area under which the student may qualify for the ESYP. This criterion is for students who have a transition services plan and who are expected to exit the local education agency at the end of the school year.

b. Local education agency transition services action steps are addressed in the IEP objectives. The IEP team discusses different ways of collecting data and strategies for team functioning.

## 2. Ongoing Data Collection/Screening

a. Throughout the school year, the teacher/instructional personnel monitors the transition services page and corresponding objectives on the IEP.

b. Prior to the ESYP screening date, the teacher/instructional personnel reviews the student's transition services page to determine whether there are any local education agency action steps which will not be completed by the end of the normal school year.

## 3. Is the student eligible for ESYP?

### a. Questions

i. Are there local education agency transition services page action steps that will not be completed by the end of the school year?

ii. Does the student need transition services during the summer months?

### b. Review Student Performance/Progress

i. What do the data indicate? Is the student completing all local education agency action steps and corresponding objectives? Are there some local education agency action steps and corresponding objectives that are not complete?

### c. Decision Making

i. The student is eligible for ESYP if s/he is in need of service(s) to complete action steps that are the responsibility of the local education agency.

## 4. Required Documentation

1. A list of the incomplete action steps and corresponding objectives that are the responsibility of the local education agency.

2. Information describing the student's need for transition services during the summer months.

NOTE: Transition Documentation Form found on file at the Department.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

## §529. Excessive Absences

### A. Students to be Considered

1. Students classified with a disability who are absent during the school year for more than 25 days for health related reasons without provision of hospital/homebound services.

### B. Definitions

1. Health-related conditions listed in Standard 2.055.05 of *Bulletin 741 Louisiana Handbook for School Administrators* are as follows:

a. extended personal physical or emotional illness as verified by a physician or dentist,

b. extended hospital stay as verified by a physician or dentist,

c. extended recuperation from an accident as verified by a physician or dentist,

d. extended contagious disease within a family as verified by a physician or dentist.

## C. Steps to Applying Excessive Absences Criterion

### 1. Annual IEP

a. The IEP team discusses the student's general health, past health, current health condition, etc., and in the event they:

i. anticipate student absences because of a diagnosed health condition in excess of 25 days without the provision of hospital/homebound services, and

ii. believe these absences will result in the student failing to make projected progress, he or she may qualify for ESYP.

### 2. Ongoing Data Collection/Screening

a. The IEP team collects data throughout the school year (e.g., grades, behavior checklists, task analyses, teacher observation logs). The data should indicate the progress (or lack of) the student is making toward acquisition of his or her goals and objectives.

b. The teacher documents absences caused by a diagnosed health condition(s) (e.g., verification from physician, certification from child welfare and attendance personnel that the absences were health related) or the provision of hospital/homebound services.

### 3. Is the student eligible for ESYP?

## D. Questions

1. Has the student been absent for more than 25 days, because of a diagnosed health condition, without the provision of hospital/homebound services?

2. Has the student failed to master high priority (i.e., essential to the student's overall functioning and continued educational progress) skills/objectives as a direct result of the health-related absences?

3. Will failure to acquire these skills seriously jeopardize the overall educational progress of the student?

4. Could the ESYP have a significant impact on the student's ability to make continued progress toward the acquisition of high priority goals and objectives absolutely necessary for his or her continued progress in school?

### b. Review Student Performance/Progress

i. Do data indicate lack of progress, or has the student kept up with school work in spite of the health-related absences?

### c. Decision Making

i. If the health-related absences have negatively affected the student's educational progress and the ESYP could help the student get back on track, then the student is eligible for ESYP.

## 4. Required Documentation

### a. Verification of health-related absences

b. Description of student's lack of progress on high priority skills/objectives because of health-related absences

c. Description of the impact of providing and withholding the ESYP on the student's ability to master high priority goals and objectives

NOTE 1: It is possible that excessive absences will not be indicated on the IEP as a criterion area, since the student's eligibility is based on the student having missed the days by the ESYP screening date. It is the responsibility of the teacher/instructional personnel to screen students who meet the conditions stated above for the ESYP.

NOTE 2: Excessive absences/late entry documentation form found on file at the Department.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

### **§531. Late Entry Into School**

#### **A. Students to be Considered**

1. Students who enroll after January 1st and prior to the screening date and have insufficient records/documentation to determine eligibility; there is usually insufficient time to collect all instructional data necessary to determine eligibility via other criteria.

#### **B. Definitions**

1. Late Entry. The student enrolls between January 1st and the ESYP screening date.

#### **C. Steps to Applying Late Entry Criterion**

##### **1. Annual IEP**

###### **a. The IEP team discusses**

i. the student enters special education between January 1st and the ESYP screening date,

ii. whether the student has accompanying records/performance information,

iii. whether the student is expected to be enrolled for insufficient time for the IEP team to collect adequate data to make an eligibility decision, and

iv. in the event the student fails to make the progress projected on the IEP, the student may qualify for ESYP.

##### **2. Ongoing Data Collection**

a. If possible, accompanying records from the previous instructional setting are secured.

i. Data are collected on an ongoing basis (e.g., grades, behavior checklists, task analyses, teacher observation logs).

##### **3. Is the student eligible for ESYP?**

###### **a. Questions**

i. Did the student enter the program between January 1st and the screening date with insufficient time and data necessary to determine eligibility via any of the other criteria?

ii. Is the student failing to make the projected progress on his or her high priority goals and objectives?

iii. Is there evidence that the ESYP could have a significant impact upon the student's ability to master high priority (i.e., objectives/skills essential to overall functioning and continued educational progress) goals and objectives?

###### **b. Review Student Performance/Progress**

i. Data indicate the student has adapted and is making progress in the program or data indicate that the student is having trouble adjusting and is not making progress.

###### **c. Decision Making**

i. If the student is not making the progress expected and/or there was insufficient time to collect data to determine eligibility for ESYP and the teacher/instructional personnel feels that the ESYP could have a significant impact on the student being able to meet high priority goals and objectives, then the student is eligible for the ESYP.

##### **4. Required Documentation**

a. Documentation that the student entered between January 1st and the screening date (indicated by the date of the IEP).

b. Description of the student's inability to make the progress projected.

c. Description of the impact of providing and withholding the ESYP on the student's ability to master high priority goals and objectives.

NOTE: Excessive absences/late entry documentation form found on file at the Department.

### **§533. Extenuating Circumstances**

A. There may be unusual situations or circumstances in which a student classified with a disability and enrolled in special education may need the ESYP, but does not meet any of the eligibility criteria. The intent of Extenuating Circumstances is to identify the student who meets the spirit, but not the letter, of the existing criteria.

1. The teacher/instructional personnel must use professional judgement and make the ultimate decision whether the student needs the ESYP to receive a free and appropriate public education (FAPE). In other words, the teacher/instructional personnel must answer the question: Will a break in instruction negatively impact him/her or cause the student to lose skills that will restrict his or her ability to function as independently as is possible?

#### **B. Steps**

1. The teacher/instructional personnel must screen the student using all the ESYP criteria that apply.

2. If the student does not qualify, but the teacher/instructional personnel believes there is a need for ESYP, an ESYP IEP meeting must be convened.

#### **C. Required Documentation**

1. The teacher/instructional personnel must describe the student's need for the ESYP based on the instructional data and the most closely applicable ESYP criteria. This description/narrative is written on the ESYP IEP, or on another page, and attached to the ESYP IEP.

#### **D. Examples**

1. A student has 20 health related absences by the screening date and the teacher/instructional personnel expects s/he will be absent at least six more days because of a diagnosed health condition. The teacher/instructional personnel must determine whether the health-related absences have impeded the student's progress on high priority goals and objectives and whether the ESYP could have a significant impact on his or her educational program (The Excessive Absences Criterion).

2. A student in a self-contained class setting may be able to increase his or her time in the general education class if s/he receives some assistance during the ESYP (CPI-1 criterion).

NOTE: this placement does not indicate that students may receive the ESYP to pass a class or remediate a deficit.

3. A student was addressing the critical social objectives/skills [e.g., demonstrating appropriate peer/adult interactions (90 percent of interactions), following school and classroom rules (95 percent of rules/day)] on his or her IEP and started to make progress on them late in the school year. S/he is now at 50 percent and 60 percent of the criterion level in those skill areas (i.e., not near criterion).

4. A student has an assistive technology device and it is essential for that student to use of the system/technology through the summer to maintain their functioning level of the device.

5. The skills are deemed crucial for the student to continue to participate in the general education setting. Now that the student has begun to make significant progress on the critical skills, the teacher/instructional personnel agree

that the ESYP would have a significant impact on the student's ability to master/maintain these critical skills (CPI-2 criterion).

6. A student does not show a pattern of regression-recoupment problems on the objectives targeted for regression-recoupment data collection. However, there are other objectives on the IEP which were not targeted and the data indicate there is a regression-recoupment problem with these objectives. The teacher/instructional team decides these are essential skills for the student and that these skills need to be maintained. The team indicates the student qualifies for ESYP via the regression-recoupment criterion. (Regression-Recoupment Criterion).

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

### **§535. Review of Screening/Eligibility Determination**

A. At the IEP meeting, the teacher should

1. Explain and give the parent(s)/legal guardian the ESYP Fact Sheet and document receipt of it on the Placement/LRE page of the IEP;

2. Discuss the applicable criterion/criteria for screening and for determining the student eligible and then check the applicable criterion/criteria on the Program Services page of the IEP; and

3. Tell the parent(s)/legal guardian the ESYP screening date(s) and check the date(s) on the Program Services page of the IEP.

B. During the school year, the teacher should:

1. collect student performance information/data;

2. review the student's progress/lack of progress regularly; and

3. if applicable, complete the Regression-Recoupment Summary Form.

B. Between March 15 and the ESYP screening date, the teacher should?

1. review the student's performance information/data and IEP objectives to determine whether the student is in need of an extended school year program;

2. once the decision has been made, the teacher should:

a. by the fifth business day after the ESYP screening date, send the parent(s)/legal guardian a written notice of whether the student is eligible or ineligible (Sample letters on file at the department);

b. for eligible students, by the 15th business day after the ESYP screening date, send the parent(s)/legal guardian a notice to schedule the ESY IEP meeting. The meeting does not have to be held by the 15th business day, but it must be scheduled (Sample letter on file at the department). The ESY IEP meeting must be held prior to the beginning of the student's ESY program;

c. every effort must be made to gain parent(s)/guardian participation in the ESY IEP meeting. If the parent(s)/guardian cannot attend the ESY IEP, the teacher should follow the same procedures used for a review IEP meeting (*Bulletin 1706*, §442 and §443). The ESY IEP is developed and copies of the document are sent home to the parent(s)/guardian;

d. the teacher should complete the ESYP Screening Determination Form and submit it to the Director/Supervisor of Special Education by the screening date.

D. For eligible students, the IEP team should hold the ESY IEP meeting (Next section Information and Directions).

E. For students determined ineligible and for whom the parents/legal guardian have questions or disagree, the teacher should schedule and hold a meeting with the IEP team to review the decision. This should be documented on the ESY IEP by indicating whether the meeting was requested either by the parent or by school personnel to review or determine eligibility for extended school year services. The IEP team should indicate the student's ESY eligibility status. If the parent continues to disagree with the LEA decision they may exercise their rights by initiating procedures in Louisiana's Educational Rights of Children with Exceptionalities in Public Schools.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

## **Chapter 7. ESY Program Planning Guidelines**

### **§701. Overview**

A. Extended School Year IEP. The ESYP Planning Guidelines section of the handbook provides assistance to IEP teams in the development of an individualized extended school year program. Included in this section are instructions for completing the mandated ESY IEP form and guidelines for the IEP team to follow in making decisions regarding the:

1. selection of goals and objectives for the ESYP;
2. duration and setting of the ESYP; and
3. personnel needed to implement the identified services.

B. The extended school year program is to be an extension of the regular school year program for students who have been determined to need this program to prevent them from losing significant skills that will impact their future life options. Therefore, the extended school year program is not to be an isolated summer program or a program designed to accelerate or remediate.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

### **§703. ESYP Planning Guidelines**

A. This section of the handbook provides specific information on the development of Individualized Educational Programs (IEPs) for the extended school year program (ESYP).

B. For the student who qualifies for the extended school year, the ESY IEP team must meet to develop the ESY IEP. The ESY IEP meeting is similar to the regular school year IEP meeting in many ways. Participants at the ESY IEP must include the student's teacher(s), parent(s), the local education agency's officially designated representative (ODR), and the student if appropriate. Others who have insight into the student's needs (e.g., Speech-Language Pathologist, OT, PT, Case Manager, Counselor) may also attend the meeting. If possible, the teacher who will be teaching the ESYP should attend the ESY IEP meeting.

C. The ESY IEP team is responsible for designing the extended school year program for the student. In developing an extended school year program for a student, the ESY IEP team must consider the student's educational needs according to the criterion/criteria by which that student

qualified for ESYP. Throughout the planning phase, the team is involved in a very individualized decision-making process based on the student's specific needs identified throughout the regular school year data collection and screening.

D. Following are some examples of what the focus of a student's ESYP program would be, based on the needs identified through the screening process and the criterion/criteria by which the student qualified:

1. Regression-Recoupment Criterion. The emphasis will be on the maintenance of the essential skill(s) with which the student has regression-recoupment problems.

a. Students qualifying under this criterion may benefit from three to four sessions per week for nine weeks. Three to four sessions per week should be enough to ensure maintenance. Also, with a nine-week program, there is not much time between the end of the school year and the beginning of the next. In this way, the instructional break time in which the student could regress is reduced.

2. Critical Point of Instruction 1 (CPI-1). The emphasis will be on the skill(s) the student needs to prevent loss of general education time or to provide an increase in special education service time. One instance might be the student who is in danger of losing time in general education because s/he is not keeping up in reading class. The ESYP-IEP team believes that with intensive vocabulary drill and directed instruction on passage reading s/he would be able to continue in the general education class.

a. In this case, the ESYP for this student might be four or five sessions a week for several weeks for intensive teaching and drill.

3. Critical Point of Instruction 2 (CPI-2). The emphasis is on acquisition or maintenance of critical skill(s), such as the high school student who has almost mastered the skills related to grocery shopping (community access). His or her ESYP program would focus instruction on achieving/maintaining the skills related to grocery shopping.

a. The number of sessions per week will be dependent upon whether the specific student needs acquisition or maintenance. Acquisition programs are usually shorter with more sessions per week, while maintenance programs are often longer in duration with fewer sessions per week.

4. Late Entry. The emphasis of the program is upon mastery of high priority goal(s) and objective(s). A student entered the program in February and has failed to make the progress expected because of adjustment problems.

a. In this case, the sessions/week and duration of the extended school year program will depend upon which and how many high priority goals and objectives have been identified. These objectives must be those identified as necessary to help ensure s/he will be on track in the fall towards the accomplishment of her/his long term educational goal.

E. The ESYP Planning Guidelines sections include directions for the completion of the actual ESYP IEP form (on file at the department). Also included are strategies to assist the ESYP IEP team in decision making about instruction, programming, and services.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

#### **§705. Extended School Year Individualized Education Program (ESY IEP): Instructions for Use of the ESYP IEP**

A.1. The ESYP IEP is to be written prior to the student beginning the extended school year program. Before the ESYP IEP meeting begins, the teacher should ensure that the parent(s)/student has:

- a. received a copy of the ESYP Fact Sheet and a copy of their educational rights;
- b. had an opportunity for an oral explanation of each; and
- c. received answers to any questions they may have.

2. The ESYP Fact Sheet must be given to the parent(s) once a year; this step should occur at the annual IEP meeting. If the parent(s) received the ESYP Fact Sheet at the annual IEP, then he or she does not have to be given another copy.

B. The ESYP IEP team must keep in mind that the major purpose of ESYP is to extend instruction from the regular school year. An extended school year program should not attempt to remediate all areas of deficit.

NOTE: In planning the student's extended school year program, reasonableness, flexibility, and professional judgement must be exercised.

C. The numbers below correspond to the numbers on the ESYP IEP form on file at the Department.

1. System
  - a. The name of the local education agency (LEA) developing the ESYP IEP
2. Student's Name
  - a. The student's full name
3. ID#
  - a. A student's identification number or computer code number assigned to the student: it must be the same number as that recorded on the regular school year IEP.
4. DOB
  - a. The student's date of birth
5. Homebased School
  - a. The name of the school the student attended during the current school year (If the student was not served in a school, the current environment-such as home, hospital, or detention facility-is identified.)
6. Primary Exceptionality
  - a. The primary exceptionality, as indicated on the student's evaluation report: it must be the same as that recorded on the regular school year IEP.
7. Secondary Exceptionality
  - a. Any secondary exceptionality(ies) as indicated on the evaluation report: it must be the same as that recorded on the regular school year IEP.
8. ESYP Screening Date
  - a. The actual date the screening decision/determination of eligibility was made (Since screening can begin March 15 every year, this date will be between March 15 and the annual screening date/first Friday after Easter.)
9. ESYP Meeting Date
  - a. The actual date(s) the ESYP IEP meeting(s) was held to design the extended school year program
10. Check only if Applicable
  - a. If the ESYP IEP meeting was requested either by the parent or by school personnel to review or determine eligibility for extended school year services, check the

statement that applies. If there was no request for a meeting to review or determine eligibility, this item is left blank.

#### 11. Eligibility Determined

a. The criterion or criteria by which the student qualified for ESYP

NOTE: If a student qualified according to the Critical Point of Instruction Criterion, either the number 1 or 2 is the appropriate component.

b. In cases in which an ESY IEP meeting was held to review and/or determine eligibility (Paragraph 10 above):

i. If the student is determined *ineligible*, *Ineligible* is checked and the reason this determination was made is to be documented. (This description/narrative is written on the ESY IEP or on another page and attached to the ESY IEP.) Blocks 1 through 11 are to be completed, participants of the meeting are to sign as participants in block 12, and the parent is to sign block 31 indicating agreement with the decision.

(a). If the student is found *ineligible* and the parent disagrees, indicate in the COMMENTS section or on another page and attach to the ESY IEP, the reason the parent disagrees.

(i). The parent(s) must be informed of his or her due process rights and procedures.

(b). If the student is determined *Eligible*, check the criterion/criteria by which s/he qualified.

c. In cases in which an ESY IEP meeting is held to make an Extenuating Circumstances decision, see below.

i. If the student is determined *ineligible*, *Ineligible* is checked and the reason this determination was made is explained. (This description/narrative is written on the ESY IEP or on another page and attached to the ESY IEP.) Blocks 1 through 11 are to be completed, participants of the meeting are to sign as participants in block 12, and the parent is to sign block 31 indicating agreement with the decision.

(a). If the student is found *ineligible* and the parent(s) disagrees, indicate in the Comments section or write on another page and attach to the ESY IEP the reason the parent disagrees.

(i). The parent(s) must be informed of his or her due process rights and procedures.

(b). If the student is determined *eligible*, *Extenuating Circumstances* is checked. The narrative explanation must be written on the ESY IEP or on another page and attached to the ESY IEP.

#### 12. ESY IEP Participants

a. ESY IEP team members who attend the conference sign and state their positions such as principal, coordinator, supervisor, physical therapist, assessment teacher, etc. Signatures in this section indicate attendance at the meeting, not agreement with the IEP. Participants must include the student's regular-school-year and ESYP teacher(s), parent(s), ODR, and student unless the parent(s) waives that right.

#### 13. ESYP Needs

a. Describe the specific areas of current performance and specific needs the student has for instruction and services during the ESYP based on the criterion/criteria by which the student qualified. For example, the student may need to use a calculator, respond to specific reinforcers, need certain prompts or cues, etc.

#### 14. Selection of Goal(s) and Objective(s)

a. The regular school year IEP and the criterion/criteria by which the student qualified for the ESYP are the basis upon which the ESY IEP is written. There is a specific process to use in making decisions about the goal(s) and objectives(s) for the ESYP, dependent upon the eligibility criterion/criteria used in determining the student eligible. Refer to the instructions for identifying goals(s) and objective(s) according to areas of eligibility before completing these blocks:

- i. regression-recoupment;
- ii. critical point of instruction;
- iii. self-injurious behavior;
- iv. employment;
- v. transition;
- vi. late entry;
- vii. excessive absences;
- viii. extenuating circumstances.

b. There is no minimum or maximum number of goal(s) and objectives to be identified for ESY instruction. The number of objectives identified for the ESYP instruction is based on individual student need. The IEP team should carefully consider the purpose of extended school year services and the criterion/criteria under which the student qualified for ESYP. The major purpose of the ESYP is to extend instruction from the regular school year. The ESYP is not a program aimed at remediating all areas of deficit.

i. If the ESY IEP team identifies goal(s) and objective(s) from the regular school year IEP, write the educational needs code [i.e., A/C (Academic/Cognitive), B (Behavior), S (Social), H (Self-Help), C (Communication), M (Motor) and V (Vocational)] and objective number; then paraphrase the objective. Include enough specificity so that the skills and criterion level are evident.

ii. If the ESY IEP team determines that specific new goal(s) and/or objective(s) must be written, follow the process below.

(a). Write the education needs code [i.e., A/C (Academic/Cognitive), B (Behavior), S (Social), (Self-Help), C (Communication), M (Motor) and (Vocational)].

(b). Write a goal to be completed in the ESYP; then write complete objective(s) to meet the goal and number them. This goal(s) and objective(s) are for only the duration of the ESYP.

NOTE: If more space is needed when writing objectives, use another ESY IEP form. Indicate page \_\_\_ of \_\_\_ on each page of the form and complete all identifying blanks at the top of the page especially #1-9.

#### 15. Integration Important

a. The decision about the need for integration is based on each individual objective.

b. For example, it would be important to have integration with non-disabled persons to achieve an objective regarding grocery shopping at a local store. This objective would be implemented in the community where integration will take place. Write Yes in the Integration Important block on the ESY IEP.

c. On the other hand, it may not be important to have integration in order to achieve objectives related to mathematical computations. This objective does not necessitate the presence of non-disabled peers/persons to work on mathematical problems. Write No in the Integration Important block.

d. Write "yes" or "no" for each objective to indicate whether it is important for the student to be integrated with non-disabled persons to achieve that objective.

#### 16. Personnel Responsible

a. There is no rule as to the personnel who must implement an objective. That decision is made based on each objective.

b. Who is needed to work on the objective?

i. With integrated IEPs and team collaboration, it may be that the teacher can work on certain communication and motor skills during the ESYP and there is no need for the speech-language pathologist or OT to assist; or it may be that only the speech-language pathologist or OT is needed. It may be that the teacher needs consultation with the therapist, but there is no need for direct service. The decision is made objective by objective. Personnel responsible may be different for each objective.

c. Parent(s)/family/caregiver(s) should be involved in the student's ESYP program. The family/caregiver involved can be written in as personnel responsible in addition to the local education agency personnel. Consider the following questions.

i. Would the home environment facilitate functional practice?

ii. What is the child's usual summer environment during the instructional day (e.g., home, child care center)?

iii. Is the family/caregiver available and able to participate in the reinforcement of skills?

d. For each objective, write the title of the person(s) who will be responsible or implementing each objective(s) (classroom teacher, speech language pathologist, APE teacher, counselor, OT, PT, etc.). Abbreviations may be used, such as cl. tch., SLP, APE tch.

#### 17. Settings

a. The ESYP IEP team discusses the setting or settings where the extended school year program should take place. The team determines the best setting to implement the ESYP objectives. One or more settings may be selected, depending on the ESYP objectives.

b. For example, an objective related to grocery shopping must be carried out in the community, whereas, an objective related to mathematical computation may be carried out in the home or at school.

c. The site selected must be reasonable. For example, if the parent(s) works, and there is nobody in the home, then home would not be a reasonable place to provide services.

d. The settings are numbered according to primary (1), secondary (2), etc. If a student will receive services in only one setting, the numeral one or a check (✓) is to be entered.

e. Examples

i. For a student who will receive services on the regular school campus, the numeral one or a check (✓) is to be entered.

ii. For a student who will be at school (most of the time) and in the community (2x/wk, or less time than at school), the numeral one is entered for "Regular School Campus" and the numeral two is entered for "Community." If time between the two settings will be about the same, it does not matter which is indicated as one or two.

#### 18. Date ESYP to Begin

a. The ESYP IEP team should discuss things that may occur that will interfere with the student's attendance at the ESYP. There may be a family vacation scheduled, surgery may be scheduled at a certain time, or the student may be going to visit family out of state, etc. This information can then be taken into account in scheduling the ESYP.

b. The amount or duration of ESYP services cannot be unilaterally limited for all students. However, when planning for many students it may be appropriate to consider the local education agency's summer calendar. The local education agency's summer calendar may not be available at the time of the ESYP IEP meeting, so the team may estimate the date to begin based on the duration of services determined to be needed by the student (#22 below).

c. For example, the team does not know the exact dates the local education agency will be open during the summer months, but school ends on May 31st and starts again in the fall on August 22nd. They have determined that a given student needs a program six weeks long to acquire identified skills. (Regression-recoupment is not a concern.) Considering the need for a short break, the team indicates the date to begin as June 17th.

d. A different student in the same local education agency has serious regression-recoupment problems after a two week break in instruction (indicated by data collected during the regular school year); therefore, the team indicated the date to begin as June 10th (only a one week break in order to avoid serious regression).

e. Date ESYP To End

1. To continue with the students used in the examples above,

2. The team indicated that the date to end the ESYP for the first student would be July 26th, thus giving that student a six-week program.

3. For the second student mentioned above, the team indicated August 8th as the date to end the ESYP so there would not be more than a two week break before the next school year began and little time for regression-recoupment problems.

#### 19. Progress Report(s)

a. Indicate the intervals (e.g., every two weeks, four weeks, or a check (✓) at the end of the ESYP) at which time progress reports will be sent home. At a minimum, progress reports must be sent to the parent(s) within ten business days after the completion of the ESYP.

#### 20. Instructional Resources Needed For ESYP

a. The team now determines the service(s) the student will need to receive during the ESYP. The ESYP IEP team has already determined the personnel needed to provide the service(s) (see # 17 above) and now the service(s) is indicated on the ESYP IEP.

b. If the teacher is the only person needed to implement the ESYP IEP objective(s), then only the Special Education Instruction section will be completed.

c. If the teacher and physical therapist are needed to implement the ESYP IEP objectives, then *Special Education Instruction and Physical Therapy* (written in a blank space) are completed.

d. Spaces for Special Education Instruction, Speech/Language Therapy, and Adapted Physical Education are included on the form. Other services needed, such as Physical Therapy, must be written in a blank space provided on the form.

#### 21. Duration

a. The team will determine the number of weeks needed to address the objectives and needs of the student. Indicate duration in weeks of how long each service will last. In making this determination, the following should be considered.

i. What is the longest period of time the student can go without instruction to avoid negative impact on his or her current skill level? (Use student performance data to make this determination such as, the Regression-Recoupment Summary Form data.)

ii. The student may need to acquire skills necessary to keep him/her in the least restrictive environment and needs only a few weeks to accomplish those skills.

iii. Refer to Paragraph 24 below regarding instructional focus of acquisition/fluency and maintenance.

b. Not all students need the same program length. The IEP is an individual, student-based decision.

c. There may be cases in which students must remain at a site longer than the time indicated on the ESY IEP because of transportation difficulties. For example, the local education agency may not be able to run buses every 30 minutes to an hour in order to accommodate the various ESY programs of all the students. If this is the case, the student must be supervised. The need to remain at the site because of transportation difficulties is indicated in the comments section.

#### 22. Individual/Group

a. When applicable, indicate whether services will be delivered on an individual basis or in a group.

#### 23. Minutes/Session

a. The team will determine the amount of time per day needed to provide instruction on the ESY objectives.

b. Consider these questions.

i. How long will it take to provide instruction on the ESY objective(s)?

ii. If the community is a setting, how much time is needed to travel to instructional site(s)?

iii. What is the longest instructional period that will hold the student's attention?

c. For example, for three objectives for mathematical computation, the team decides the objectives can be addressed in 60 minutes. For one objective involving grocery shopping for five to ten lunch items, the team decides the objective can be addressed in 90 minutes.

d. Indicate the number of minutes per session it will take to work on the objective(s) identified for the ESY. The number of minutes per session may be different for each service based on the amount of time needed to address the various objectives.

#### 24. Sessions/Week

a. The team determines the number of sessions per week needed for the student to complete his or her ESY program.

b. Consider the following questions.

i. Is the instructional focus acquisition/fluency?

(a). If yes, consider an intensive instructional schedule that provides an opportunity for sufficient repeated practice to master the identified skills.

ii. Is the instructional focus maintenance?

(a). If yes, consider an instructional schedule that provides for periodic assessment of the student's skill performance over a longer period of time to assure and check for maintenance. For example, a student qualified under regression-recoupment, and the team determined that a schedule of two sessions/week for seven weeks could allow for maintenance of the skills/objectives and ensure against regression-recoupment problems, since there would not be a lengthy break between the time school ends (spring) and before the next school year begins (fall).

c. Indicate the number of sessions per week for each service the student requires to meet the objectives. The sessions per week may be different for each service based on individual student need. Note frequency and duration of services.

i. It is the responsibility of the special education administration to schedule the specific days of the week and beginning and ending date options to accommodate each student's program. To any student that needs an extensive program, the local education agency must make available at a minimum a program such that the total length of breaks at the end of the school year and before the beginning of the next school year cannot exceed three weeks. This is not to be interpreted as a limit on the length of ESY programs but a minimum length of program to consider for a student who requires an extensive program. As indicated throughout this process, duration is based on the individual needs of the student.

#### 25. Location

a. The location where services will be provided. (both direct and related services.) Setting should reflect location.

#### 26. Primary Service Provider

a. The professional who will provide each listed service by title: e.g., teacher, speech-language pathologist, nurse, PT, social worker, counselor, etc.

#### 27. Comments

a. This block should be used to add additional information needed to clarify issues concerning the student's ESY IEP.

b. Examples:

i. The student will remain on campus longer than specified on the ESY IEP (minutes per day), in supervised activities, because of transportation issues.

ii. The parent(s) declined services because they are going on vacation, or are not happy with services, etc.

#### 28. Procedural Safeguards

a. The parent/legal guardian places a check (✓) indicating s/he has received copy of the procedural safeguards.

#### 29. Officially Designated Representative

a. The officially designated representative (ODR) of the local education agency must date and sign his or her name indicating the local education agency will provide the services agreed to on the ESY IEP.



### 30. Parent Approves ESY IEP

a. The parent/guardian/surrogate parent/competent major/student accepts the ESYP and signs and dates to indicate "fully informed consent."

### 31. Parent Declines ESYP

a. If the parent declines the extended school year program, write the reason the parent declined service(s) in the comments section and have the parent sign.

NOTE: If a parent indicates early in the ESY IEP meeting that s/he does not want the student to attend the ESYP, the teacher with primary responsibility must complete only 1-12 and write the reason for declining. The parent must sign the form.

b. If the parent(s) is not satisfied with ESY IEP programming decisions and consensus cannot be reached, the parent(s) must be informed of his or her due process rights and procedures.

### 32. Transportation

a. Just as during the regular school year, transportation must be offered in cases in which it is necessary. As with other services, the IEP team should recommend transportation services in the least restrictive, most appropriate mode available. The transportation recommended must be reasonable and at no cost to the parent(s).

b. For example, it would not be reasonable for the only offer of transportation to be parental reimbursement if the parent works or does not have a car. Mileage reimbursement may be used as a transportation option only if the parent(s) is willing to transport his or her son/daughter.

c. Circle "yes" if transportation is to be provided for the student and describe the type (e.g., school bus, contracted carrier, parental reimbursement).

d. Circle "no" if there is no need to provide transportation (e.g., the student chooses to walk to school).

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

### **§707. Selection of Goal(s) and Objective(s) for Students Eligible by Regression-Recoupment Criterion**

A. The ESY IEP team must remember that the intent of regression-recoupment criterion is to provide instruction to students who regress to a lower level of educational functioning because of the interruption in the educational program and for whom the reacquisition of these lost skills is slow. In identifying objectives for ESYP instruction for students who meet the criterion, the ESY IEP team must keep in mind that the focus of this criterion is on the maintenance and/or reacquisition of skills.

B. The ESY IEP team should follow this sequence to select objectives for ESY instruction:

1. Look at the targeted/circled objectives. If the student has not mastered or maintained these objectives, the ESY IEP team must determine whether instruction on these objectives should be continued during ESYP.

2. Look at other objectives on the regular school year IEP that the student has not mastered and which require instruction for the student to continue his or her educational program without the loss of essential skills. The ESY IEP team should carefully review the student's pattern of regression-recoupment problems and determine which of these objectives should be addressed during the ESYP. For

example, did the student regress in a particular curricular area (e.g., communication, self-help, motor)? The team may decide to identify other essential objectives in that area.

3. If the student has mastered all objectives on his or her regular school year IEP since the screening date, and if the ESY IEP team feels that ESYP instruction is necessary because of a pattern of regression-recoupment problems, an objective(s) that focuses on maintenance of essential skills during the ESYP must be written.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

### **§709. Selection of Goal(S) and Objective(S) for Students Eligible by Critical Point of Instruction Criterion**

A. For students who qualify according to the Critical Point of Instruction Criterion, the ESY IEP team must examine the specific component area in order to determine which objective(s) to identify. They should follow the process specified under each component.

#### **B. Critical Point One: Least Restrictive Environment**

1. During the screening process, the teacher/instructional personnel identifies the skill(s) the student must have to prevent an increase in special education instruction time/loss of time in general education for the student.

a. If the teacher/instructional personnel determines that the skill(s) needed to prevent the student's increase in special education instruction time/decrease in general education time is included in the objectives on the regular school year IEP, the IEP team identifies those objectives for ESYP instruction.

b. There may be instances in which the teacher/instructional personnel reviews the regular school year IEP and determines that the skill(s) needed to prevent the student's increase in special education instruction time/decrease in general education time is/ or not on the IEP. It is only in these instances that the ESY IEP team may write a new goal(s) and objective(s) related to the skills necessary to prevent a loss in general education time or increase in special education service time. The goal(s) and objective(s) are for the duration of the ESY program only.

#### **C. Critical Point Two: Critical Self-Help, Community Access, Social/Behavioral Skills**

1. During the screening process, the teacher/instructional personnel identified the critical self-help skill(s), critical community-access skill(s), and/or critical social/behavior skill(s) that needed to be mastered or maintained during the ESYP.

a. The ESY IEP team identifies the critical skill(s) in need of acquisition or maintenance from the regular school year IEP.

b. There may be instances in which the ESY IEP team determines there is another skill(s) the student needs to master or to maintain in order for him/her to master the critical skill(s) identified for the ESYP instruction. It is only in these instances that the ESY IEP team may write a new goal(s) and objective(s) to address this skill. The goal(s) and objective(s) are for the duration of the ESY program only.

#### **2. Examples:**

a. A student is addressing training in use of the public transportation system. However, being exhibited are

challenging behaviors that are not addressed on the regular school year IEP. The team writes a new goal and objective(s) to be completed during the ESYP, specific to the challenging behavior(s) exhibited on the city bus system.

b. A student is maintaining a grocery shopping skill during the ESYP. The ESY IEP team determines that the student should take the city bus from home to the shopping site. City bus transportation skills are not addressed on the regular school year IEP. The ESY IEP team writes a new goal and objective(s) to address use of the city bus to go from home to the shopping site.

c. In these instances, the ESY IEP team should carefully consider inclusion of a similar goal(s) and objective(s) on the regular school year IEP.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

**§711. Selection of Goal(s) and Objective(s) for Students Eligible by Self-Injurious Behavior Criterion**

A. During the screening process, the teacher/instructional personnel determined the student needed support to reduce, or maintain at a lower level, self-injurious behavior. Based upon a review of the behavior intervention plan, the ESY IEP team should focus on the need for continued intervention.

1. If the ESY IEP team determines that the regular school year IEP has objectives specific to the reduction of the self-injurious behavior or maintenance of appropriate behaviors, the team must identify those objectives for ESYP instruction.

2. If the ESY IEP team determines that the regular school year IEP does not have objectives specific to the self-injurious behavior, the team must write a new goal(s) and objective(s) for the ESYP. The goal(s) and objective(s) must be based upon the documentation used in determining the student eligible for ESYP.

a. In these instances, the ESY IEP team should carefully consider inclusion of a similar goal(s) and objective(s) on the regular school year IEP.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

**§713. Selection of Goal(s) and Objective(s) for Students Eligible by Employment Criterion**

A. During the screening process, the teacher/instructional personnel determined the student needs support to maintain paid employment.

1. The ESY IEP team identifies from the regular school year IEP the objectives that are specific to the paid employment. The ESY IEP team identifies these objectives for the ESYP instruction.

2. If there are no objectives specific to the paid employment, the ESY IEP team must write a new goal(s) and objective(s) specific to the needs related to maintaining that employment during the summer months.

B. The ESYP Needs (block #13 on the ESY IEP) must identify the specific employment site and the skills for which the student needs support to maintain the paid employment.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

**§715. Selection of Goal(s) and Objective(s) for Students Eligible by Transition Criterion**

A. During the screening process, the teacher/instructional personnel determined the student needs to have the transition services page of the IEP completed. The ESY IEP team is to use information from the regular school year Individualized Transition Services page and related IEP objectives in developing the ESY IEP instructional plan. The ESY IEP team should include members of the Transition Service page team.

B. In developing the extended school year instructional plan, the team plans according to the following procedures.

1. The ESY IEP team must examine IEP objective(s) related to the local education agency transition services page, which needs to be completed. The team must write a goal for the completion of the action step(s).

2. The objective(s) on the IEP, which is related to the action step(s), is identified for ESY instruction and written on the ESY IEP.

C. The ESYP Needs (block #13 on the ESY IEP) section of the ESY IEP should include description of the student's specific need for services related to action steps.

NOTE: A new transition services page does not have to be written for the ESYP.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

**§717. Selection of Goal(s) and Objective(s) for Students Eligible by Excessive Absences and Late Entry Criteria**

A. For a student eligible for ESY services according to the Excessive Absences or Late Entry criteria, the focus of the ESYP is on the high priority goal(s) and objectives. The ESY IEP team must identify areas that will keep the student on track when school starts in the fall.

1. The ESY IEP team must identify objective(s) from the regular school year IEP for instruction during the ESYP.

2. The objective(s) selected must be high priority in that failure to continue instruction/progress will jeopardize the probability of the student's successfully completing IEP goals and objectives and reaching his or her long term educational goal.

B. These criteria are the only cases in which the team must identify objective(s) from the regular school year IEP.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

**§719. Selection of Goal(s) and Objective(s) for Students Eligible by Extenuating Circumstances**

A. The teacher/instructional personnel has screened the student under all criterion/criteria that are applicable; however, the student did not qualify according to any of the criteria. The ESY IEP team has reviewed the data/instructional performance information and agreed that it indicates the student is in need of an extended school year program.

B. The teacher/instructional personnel has articulated the need to extend the school year for the student based on the guidelines of one or more of the ESY criteria, even though

the student does not meet all specifications of the criteria. The ESYP IEP team must then follow the process for selecting objectives according to that criterion/criteria.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

### **§721. A Quick Review-Planning**

A. An ESYP IEP must be written for students eligible for the ESYP prior to the beginning of the program.

B. Objectives are identified for ESYP instruction based upon the criterion or criteria by which the student qualified.

C. The ESYP program must be individually designed. The duration of the program, number of sessions per week, and amount of time per session are to be determined at the ESYP IEP meeting and based on the individual student's need according to the objectives identified.

D. Transportation for the student must be offered to the parents in cases when it is needed. The offer(s) must be reasonable.

E. An ESYP IEP meeting must be held when parents question the determination that their child is ineligible for ESYP.

1. If consensus cannot be reached and the parent(s) disagrees with the teacher/instructional personnel decision (regarding eligibility or programming), s/he must be informed of his or her due process rights and procedures.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

## **Chapter 9. Strategies for Implementation and Evaluation of the ESYP Program: Site Selection; Integration; Record Keeping**

### **§901. Overview**

A. Once a student's extended school year program has been planned through the Extended School Year IEP process, the program must be implemented. Provision of the ESYP requires consideration of both individual student needs and administrative concerns. During the regular school year, local education agencies operate all schools within their jurisdiction, while serving students in Extended School Year Programs only a limited number of schools are in full operation, the number of full time staff members is reduced, and other limiting factors are in effect.

B. Although ESYP may present operational problems, local education agencies must provide all services to students as described on the ESYP IEP. To the maximum extent possible, local education agencies must provide extended school year instruction in a setting(s) that contributes to the student's integration and that is the least restrictive environment option for that student. The services necessary to meet the goals and objectives of the ESYP IEPs are to be provided.

C. Careful records should be kept in order to evaluate the student's performance and progress toward the completion of the ESYP goals and objectives. Accurate records of student performance will assist the IEP team in the upcoming school year to continue the educational program with a minimum of interruption and disruption.

D. As during the regular school year, the ESYP IEP team must document instructional activities on lesson/activity plans. Ongoing student performance assessment is always an

integral part of any educational program; it should be documented on appropriate data collection forms (e.g., grade book, checklist, task analysis form) and progress reports.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

### **§903. Implementation**

A. Local education agencies shall continue to address LRE factors, including integration with non-disabled persons, in the implementation of the ESYP program.

1. Whenever possible, ESYP services must be offered in the same site(s) as age appropriate regular summer school programs. (This handbook contains a description of administrative responsibilities.)

2. The ESYP IEP team must consider traditional and non-traditional approaches to achieve integration with non-disabled persons for those objectives on the ESYP IEP for which integration is indicated to be important.

a. The ESYP IEP team must review the ESYP IEP objectives requiring integration with non-disabled persons and must generate a plan of action to achieve the integration. Administrative and instructional personnel must work together to implement this plan.

b. If the student is on a regular school campus with non-disabled students, there may be activities that would accommodate the need for integration (e.g., breakfast, recess, reading class, etc.).

c. The mere presence of students with and without disabilities on the same campus does not ensure integration. Lesson/Activity planning must be used to assure that objectives requiring integration are addressed.

d. If integration on a regular school campus is not possible, the IEP team must be creative and find opportunities/activities to provide the integration necessary to meet the objectives. Some examples may be as follows:

- i. use of the local library and summer activities;
- ii. providing services at the day care center the student regularly attends;
- iii. including neighbors/friends in instructional sessions;
- iv. use of the local gym/park/recreation facilities, etc.

3. Documentation of integration activities are to be included in the lesson/activity plans. (Sample Lesson/Activity Plan forms on file at the Department.)

B. Local education agencies shall ensure that the services listed on the ESYP IEP are provided.

1. Local education agencies must provide the service(s) needed to implement each student's ESYP IEP.

a. Service provision to students during the ESYP is documented on the student's ESYP IEP in the Instructional Resources Needed for ESYP section: for example, classroom instruction, APE, OT, PT, speech/language therapy, counseling, etc.

b. The ESYP IEP team will decide when, where, and how the services will be provided.

c. NOTE: If there are differences in the services provided from what are indicated in the Instructional Resources Needed for ESYP section of the ESYP IEP, the Director/Supervisor of Special Education is responsible for describing these differences in the ESYP Outcome Report.

d. The parent must be consulted and notified of any modification(s) to the ESY IEP.

2. Local education agencies must employ sufficient staff to meet the ESY IEP requirements for each student. (This handbook contains a description of administrative responsibilities.)

C. Local education agencies shall ensure that instructional activities conducted during ESYP are documented.

1. Local education agencies must encourage the instructional staff to work cooperatively to plan instructional activities for each student during the ESYP.

a. Cooperation and coordination among IEP team members are encouraged so that each student will benefit from consistent instruction and have an increased likelihood of success.

b. The coordination of instructional staff efforts may be accomplished by jointly writing instructional plans. Specific activities may also be taught as a joint endeavor with the data collected cooperatively. In this manner, the instructional activities planned for the student will be consistent and continuous. The cooperative efforts of instructional staff members may be documented in one of the following ways: in lesson plans/activity plans, joint data collection forms, conference records, team meeting notes, etc.

2. Local education agencies must require that the instructional staff maintain accurate records of ESYP instructional activities.

a. As during the regular school year, it is necessary to update records/collect instructional data regularly to indicate whether the student is making progress in acquiring, maintaining, and/or mastering skills outlined in his or her goals and objectives. It is equally important to record information when the student has not made projected progress, since instructional strategies may need to be re-examined. Accurate records are important for reference by the IEP team in the subsequent school year.

b. The ESY teacher may find it helpful to use the same data collection forms and strategies as used in the regular school year teacher. This practice would also facilitate the transfer of information back to the regular school year teacher.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

### **§905. Evaluation**

A. Local education agencies shall ensure that instructional personnel measure and report student outcomes.

1. Progress reports must be disseminated to parents at the intervals specified on the ESY IEP. Typically, a progress report from the ESYP is provided to parents within 10 business days following completion of ESY services.

2. Copies of ESYP progress reports must be maintained in the student's IEP file along with the usual/normal ongoing data collection.

B. Local education agencies shall evaluate ESYP outcome data to determine program effectiveness.

1. Program operations must be examined to determine the effectiveness of ESYP.

a. Effectiveness should be reflected in the match between the needs of the student and the program services provided.

b. Local education agencies should examine the overall effectiveness of the program provided to all students in order to assist the agency in future planning.

2. Program effectiveness is evaluated from the individual student perspective, as well as system wide.

C. Local education agencies shall report ESYP data in accordance with state-mandated procedures.

1. The ESY outcome data must be collected and reported no later than October 15. (A sample format and directions are on file at the Department.)

2. The ESYP Outcome Report (on file at the Department) has two purposes:

a. to provide the format for collecting outcome data on individual student performance during the ESYP (Section I, Student Performance); and

b. to serve as a means of evaluating overall program effectiveness (Section II, Program Evaluation).

i. The ultimate responsibility for reporting the ESYP outcome data to the SDE rests with the Director/Supervisor of Special Education; however, instructional personnel are responsible for reporting student outcomes to the director/supervisor.

ii. The portion of the ESYP Outcome Report for which instructional personnel have responsibility is that which includes information on student performance during the ESYP and on the services provided to students during the extended school year program (Section I, Student Performance).

iii. The director/supervisor must ensure that outcome data on students are entered into the Louisiana Network for Special Education Records (LANSER) by October 15th each year.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

Interested persons may submit written comments until 4:30 p.m., June 9, 2004, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

## **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Bulletin 1872C Extended School Year Program Handbook**

### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There will be no implementation costs to local government. The cost of dissemination at the state level will be approximately \$1000 from federal funds.

### **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 government.

### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

There will be no costs or economic benefits to directly affected persons or non-governmental groups. This document

has never been codified but has been used by the state and local education agencies since the 1980s.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment.

Marlyn J. Langley  
Deputy Superintendent  
Management and Finance  
0405#005

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Tuition Trust Authority Office of Student Financial Assistance

#### START Saving Program Definitions and Deposits (LAC 28:VI.107 and 305)

The Louisiana Tuition Trust Authority announces its intention to amend its START Savings Program Rules (R.S. 17:3091 et seq.).

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

### Title 28 EDUCATION

#### Part VI. Student Financial Assistance Higher Education Savings

##### Chapter 1. General Provisions

##### Subchapter A. Tuition Trust Authority

##### §107. Applicable Definitions

**Account Owner** the person(s), independent student, organization or group that completes the START Saving Program owner's agreement on behalf of a beneficiary and is the account owner of record of all funds credited to the account.

**Beneficiary** the person named by the account owner in the Education Savings Account (ESA) owner's agreement (or the person named by LATTA when authorized to make such a designation by the owner of an account that is classified under §303.A.5, as the individual entitled to apply the account balance, or portions thereof, toward payment of their qualified higher education expenses.

**Beneficiary's Family** for the purpose of §303.A.5, one of the following persons:

1. the beneficiary's parent(s) or court order custodian; or
2. a person who claims the beneficiary as a dependent on his or her federal income tax return for the previous year; or
3. a person who certified that the beneficiary lives with him, that he provides more than 50 percent of the beneficiary's support for the previous year and that he was not required to file an income tax return for the previous year.

**Current Value** the value of an education savings account at a given point in time.

1. The current value of fixed earnings investment options includes the accumulated value of the principal deposited, earnings on deposits, Earnings Enhancements (EEs) allocated to the account and the earnings on the EEs.

2. The current value of variable earnings investment options includes the number of units in the investment

option purchased multiplied by the current value of each unit plus the Earnings Enhancements (EEs) allocated to the account and the earnings on the EEs. This value may be more or less than the amount originally deposited.

**Disabled or Disability** Can individual who is considered to be disabled because he/she is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or to be of long-continued and indefinite duration. An individual shall not be considered disabled unless he furnishes proof of the existence thereof in such form and manner as LATTA may require.

**Earnings Enhancement (EE)** Ca payment allocated to an ESA, on behalf of the beneficiary of the account, by the state. The amount of the annual EE is calculated based upon the classification of an account, the annual federal adjusted gross income of the account owner, and total annual deposits of principal into an ESA, including deposits in fixed earning and variable earnings options. Earnings Enhancements, and the interest earned thereon, may only be used to pay the beneficiary's qualified higher education expenses, or portion thereof, at an eligible educational institution and cannot be refunded.

**Education Savings Account (ESA)** Ca savings account established by a natural person or a legal entity to pay qualified higher education expenses of the designated beneficiary.

**Educational Term** Ca semester, quarter, term, summer session, inter-session, or an equivalent unit.

**Eligible Educational Institution**, either

1. a state college or university or a technical college or institute or an independent college or university located in this state that is accredited by the regional accrediting association, or its successor, approved by the U.S. Secretary of Education and eligible to participate in a program under Title IV of the Higher Education Act of 1965 (20 U.S.C. 1088), as amended; or

2. a public or independent college or a university located outside this state that is accredited by one of the regional accrediting associations, or its successor, approved by the U.S. Secretary of Education and eligible to participate in a program under Title IV of the Higher Education Act of 1965 (20 U.S.C. 1088), as amended; or

3. a Louisiana licensed proprietary school, licensed pursuant to R.S. Chapter 24-A of Title 17, and any subsequent amendments thereto and is eligible to participate in a program under Title IV of the Higher Education Act of 1965 (20 U.S.C. 1088), as amended.

**False or Misleading Information** Ca statement or response made by a person, which is knowingly false or misleading, and made for the purpose of establishing a program account and/or receiving benefits to which the person would not otherwise be entitled.

**Fixed Earnings** Ca the placement of all deposits in an ESA, to include the interest earned thereon, in investments that normally provide a fixed rate of return for a specific period of time.

**Fully Funded Account** Ca an account in which the current value has equaled or exceeded the amount that is five times the annual qualified higher education expenses at the highest cost Louisiana public college or university, projected to the scheduled date of first enrollment. The projected qualified

higher education expenses at each eligible educational institution shall be updated by the administering agency. On the date of the beneficiary's first enrollment in an eligible educational institution, the fully funded amount will be fixed at five times the annual qualified higher education expenses at the highest cost Louisiana public college or university, for the academic year of enrollment or the projected amount, whichever is greater.

**Independent Student**Ca person who is defined as an independent student by the Higher Education Act of 1965 (20 U.S.C. 1088) (HEA), as amended, and if required, files an individual federal income tax return in his/her name and designates him/herself as the beneficiary of an ESA.

1. The HEA defines independent student as a student who:

a. reached 24 years of age prior to January of the year preceding the academic year for which the student is applying for aid;

b. is a veteran of the U.S. Armed Forces, including a student who was activated to serve in Operation Desert Storm;

c. is an orphan or a ward of the court or was a ward of the court until age 18;

d. has legal dependents other than a spouse;

e. is a graduate or professional student;

f. is married; or

g. has been determined independent by a financial aid officer exercising professional judgment in accordance with applicable provisions of the HEA.

2. An independent student may only open an account as an account owner if he/she is 18 years or older.

**Legal Entity**Cjuridical person including, but not limited to, groups, trusts, estates, associations, organizations, partnerships, and corporations that are incorporated, organized, established or authorized to conduct business in accordance with the laws of one or more states or territories of the United States. A natural person is not a legal entity.

**Louisiana Education Tuition and Savings Fund (the Fund)**Ca special permanent fund maintained by the Louisiana State Treasurer for the purpose of the START Saving Program, and is the account into which all initial deposits made to ESAs are deposited. The fund includes the Savings Enhancement Fund, which is a special sub-account designated to receive Earnings Enhancements appropriated by the state, and interest earned thereon.

**Louisiana Office of Student Financial Assistance (LOSFA)**Cthe agency of state government responsible for administering the START Saving Program under the direction of the Louisiana Tuition Trust Authority.

**Louisiana Resident**C

1. any person who resided in the state of Louisiana on the date of the application and who has manifested intent to remain in the state by establishing Louisiana as legal domicile, as demonstrated by compliance with all of the following:

a. if registered to vote, is registered to vote in Louisiana;

b. if licensed to drive a motor vehicle, is in possession of a Louisiana driver's license;

c. if owning a motor vehicle located within Louisiana, is in possession of a Louisiana registration for that vehicle;

d. if earning an income, has complied with state income tax laws and regulations;

2. a member of the Armed Forces stationed outside of Louisiana, who claims Louisiana on his/her official DD Form 2058 as his/her *legal residence* for tax purposes, and is in compliance with state income tax laws and regulations, shall be considered eligible for program participation. A member of the Armed Forces stationed in Louisiana under permanent change of station orders shall be considered eligible for program participation;

3. persons less than 21 years of age are considered Louisiana residents if they reside with and are dependent upon one or more persons who meet the above requirements;

4. a legal entity is considered to be a Louisiana resident if it is incorporated, organized, established or authorized to conduct business in accordance with the laws of Louisiana or registered with the Louisiana Secretary of State to conduct business in Louisiana and has a physical place of business in Louisiana.

**Louisiana Tuition Trust Authority (LATTA)**Cthe statutory body responsible for the administration of the START Saving Program.

**Maximum Allowable Account Balance**Cthe amount, determined annually, and effective on August 1 of each year, and expressed as a current dollar value, which is equal to five times the qualified higher education expenses at the highest cost institution in the state. Once the current value of an ESA equals or exceeds the maximum allowable account balance, principal deposits will no longer be accepted for the account. However, if subsequent increases occur in the maximum allowable account balance, principal deposits may resume until the current value equals the most recently determined maximum allowable account balance.

**Member of the Family**, with respect to the designated beneficiaryC

1. the spouse of such beneficiary; or

2. an individual who bears one of the following relationships to such beneficiary:

a. a son or daughter of the beneficiary, or a descendant of either;

b. a stepson or stepdaughter of the beneficiary;

c. a brother, sister, stepbrother, or stepsister of the beneficiary;

d. the father or mother of the beneficiary, or an ancestor of either;

e. a stepfather or stepmother of the beneficiary;

f. a son or daughter of a brother or sister of the beneficiary;

g. a brother or sister of the father or mother of the beneficiary; or

h. a son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law of the beneficiary; or

i. a first cousin of the beneficiary; or

3. the spouse of an individual listed in Items 2(a) through (i).

**Natural Person**Ca human being.

**Other Person**, with respect to any designated beneficiaryCany person, other than the beneficiary, whether natural or juridical, who is not a member of the family, including but not limited to individuals, groups, trusts, estates, associations, organizations, partnerships,

corporations, and custodians under the Uniform Transfer to Minors Act (UTMA).

**Owner's Agreement** the agreement for program participation that the account owner completes and signs. It incorporates, by reference, R.S. 17:3091, et seq., and the rules promulgated by LATTA to implement this statutory provision and any other state or federal laws applicable to the agreement and the terms and conditions as set forth therein.

**Person** a human being or a juridical entity.

**Qualified Higher Education Expenses**

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

2. room and board; and

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

**Rate of Expenditure** the rate [see §309.B] per educational term at which the EEs may be disbursed from an ESA to pay for the beneficiary's qualified higher education expenses at an eligible educational institution. For each disbursement requested by an account owner, EEs and the earnings thereon will be disbursed from the account in the same ratio that they bear to the current value of the account.

**Redemption Value** the cash value of the moneys in an ESA invested in a fixed earnings option that are attributable to the sum of the principal deposited and the earnings on principal authorized to be credited to the account by LATTA, less any disbursements and refunds. The redemption value does not include any EEs allocated to the account or the earnings on EEs. Redemption value is not applicable to an ESA invested in variable earnings.

**Refund Recipient** the person designated by the account owner in the START Saving Program owner's agreement or by operation of law to receive refunds from the account. The refund recipient can only be the account owner or the beneficiary.

**Room and Board** the reasonable cost for the educational term incurred by the designated beneficiary for room and board while attending an eligible educational institution on at least a half time basis, not to exceed the maximum amount included for room and board for such period in the cost of attendance (as currently defined in §472 of the Higher Education Act of 1965, 20 U.S.C. 1087ll) as determined by the eligible educational institution for such period, or if greater, the actual invoice amount the student residing in housing owned or operated by the eligible education institution is charged by such institution for room and board.

**Saving Enhancement Fund** the sub-account established within the Tuition and Savings Fund by the State Treasurer to receive funds appropriated by the legislature or donated from any other source for the purpose of funding EEs.

**Scheduled Date of First-Enrollment**, for a dependent Beneficiary is the month and year in which the beneficiary turns 18 years of age. For an independent student over the age of 18, the scheduled date of first-enrollment is the date the account is opened. This date is used to determine eligibility for EEs. See the term *fully funded account*.

**Special Needs Services and Beneficiary** services provided to a beneficiary because the student has one or more disabilities.

**Trade Date** the date that a deposit to an investment option that includes variable earnings is assigned a value in units or the date a disbursement or refund from an investment option that includes variable earnings is assigned a value or the date of a change in investment options that includes variable earnings is assigned a value, whichever is applicable.

**Tuition** the mandatory educational charge required as a condition of enrollment and is limited to undergraduate enrollment. It does not include non-residence fees, laboratory fees, room and board nor other similar fees and charges.

**Variable Earnings** that portion of funds in an ESA invested in equities, bonds, short-term fixed income investments or a combination of any of the three.

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

**HISTORICAL NOTE:** Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:712 (June 1997), amended LR 24:1268 (July 1998), LR 25:1794 (October 1999), LR 26:2260 (October 2000), LR 27:37 (January 2001), LR 27:1222 (August 2001), LR 27:1876 (November 2001), LR 28:450 (March 2002), LR 28:777 (April 2002), LR 28:2334 (November 2002), LR 29:556 (April 2003), LR 30:786 (April 2004), LR 30:

### **Chapter 3. Education Savings Account**

#### **§305. Deposits to Education Savings Accounts**

A. - E.1. ...

2. Deposits for investment options that include variable earnings will be assigned a trade date based on the method of deposit and the date of receipt.

a. Deposits by check will be assigned a trade date five business days after the business day during which they were received.

E.2.b - 3. ...

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

**HISTORICAL NOTE:** Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:715 (June 1997), amended LR 24:1270 (July 1998), LR 26:2263 (October 2000), LR 27:1880 (November 2001), LR 30:788 (April 2004), LR 30:

Interested persons may submit written comments on the proposed changes until 4:30 p.m., June 10, 2004 to Jack L. Guinn, Executive Director, Office of Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9202.

George Badge Eldredge  
General Counsel

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: START Saving Program Definitions and Deposits**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There are no implementation costs or savings to state or local governmental units as a result of these changes.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No impact on revenue collections to the Office of Student Financial Assistance is anticipated to result from these 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.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no estimated effects on competition and employment resulting from these measures.

George Badge Eldredge  
General Counsel  
0405#023

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Environmental Quality  
Office of Environmental Assessment  
Environmental Planning Division**

Correction of Departmental Website and Mailing Addresses; Outdated References, and Miscellaneous Errors (LAC 33:I.1307 and 2305; III.517, 519, 527, 2723, 2799, 2803, and 5151; V.303 and 3719; VI.911; VII.503, 701, 711, 713, 715, 717, 721, 723, 725, 727, 1109, 3001, and 11101; IX.1507, 2501, 6703, 7129, and 7135; and XV.486, 575, and 1516)(OS055)

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:I.1307 and 2305; III.517, 519, 527, 2723, 2799, 2803, and 5151; V.303 and 3719; VI.911; VII.503, 701, 711, 713, 715, 717, 721, 723, 725, 727, 1109, 3001, and 11101; IX.1507, 2501, 6703, 7129, and 7135; and XV.486, 575, and 1516 (Log # OS055).

This proposed rule corrects all references to the department's website and mailing addresses that appear throughout the Environmental Quality regulations. These addresses have changed since the department moved downtown, and the references to them in the regulations have to be brought up to date accordingly. The regulations direct the public to the department's website as a place to obtain departmental information such as the RECAP document, certification forms, permit applications, notifications to the department, reporting requirements, and training documentation forms. The website address, mailing addresses, phone numbers, and notification information for the department will now be located on the inside front cover of each Environmental Regulatory Code (ERC) book. This rule also corrects other outdated references, corrects the use of a defined term, and restores an effluent parameter listing and definitions that were inadvertently lost in previous rulemaking. The basis and rationale for this rule are to correct all the instances in which the department's website and mailing addresses occur in the Environmental Quality regulations and to correct other errors found throughout the regulations.

This proposed rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

**Title 33**

**ENVIRONMENTAL QUALITY**

**Part I. Office of the Secretary**

**Subpart 1. Departmental Administrative Procedures**

**Chapter 13. Risk Evaluation/Corrective Action**

**Program**

**§1307. Adoption by Reference**

A. The document entitled, "Louisiana Department of Environmental Quality Risk Evaluation/Corrective Action Program (RECAP)," dated October 20, 2003, is hereby adopted and incorporated herein in its entirety. The RECAP document is available for purchase or inspection from 8 a.m. until 4:30 p.m., Monday through Friday from the department's Office of Environmental Assessment, Environmental Planning Division. For RECAP document availability at other locations, contact the department's Environmental Planning Division. The RECAP document may also be reviewed on the Internet through the department's website.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2272.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:2244 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1264 (June 2000), LR 26:2441 (November 2000), LR 29:2057 (October 2003), LR 30:

**Chapter 23. Procedures for Public Record Requests**

**§2305. Standard Operating Procedures**

A. All requests for copies of public records, including discovery requests and subpoenas duces tecum for production of public records, shall be made using LDEQ Form ISD-0005-01. A certification on LDEQ Form ISD-0005-02 shall be submitted with the request for free or reduced rate copies. Completed forms may be submitted in person, by mail, by facsimile, or other approved method. No other request will be honored. Copies of the forms may be obtained through the department's website or from the department's custodian of records.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950 et seq. and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Management and Finance, Fiscal Services Division, LR 25:429 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2442 (November 2000), LR 29:702 (May 2003), LR 30:

**Part III. Air**

**Chapter 5. Permit Procedures**

**§517. Permit Applications and Submittal of Information**

A. - C. ...

D. Contents of Application. Applications for permits shall be submitted in accordance with forms and guidance provided by the permitting authority. In addition, forms can be obtained through the department's website. At a



minimum, each permit application submitted under this Chapter shall contain the following:

D.1. - F. ...

G Change of Ownership. Notification of any change in ownership must be given to the permitting authority within 90 days after the change. Such notification need not require a complete permit application submittal, but shall be provided in accordance with forms or guidance from the permitting authority and in accordance with requirements of LAC 33:I.1701. In addition, forms can be obtained through the department's website. The administrative authority is authorized to amend the permit to reflect such changes in accordance with LAC 33:III.521. Failure to disclose such changes of ownership within 90 days after the event will be grounds for invalidation of the permit. Based on review of the compliance history of the new owner, the administrative authority has the right to deny the transfer of the permit in accordance with provisions of LAC 33:I.1701. Changes in ownership of a source holding grandfathered status will require that a permit application be submitted in accordance with LAC 33:III.501.B.6 and Paragraph A.3 of this Section.

H. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), amended LR 20:1375 (December 1994), amended by the Office of the Secretary, LR 22:344 (May 1996), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:405 (April 1997), LR 23:1677 (December 1997), amended by the Office of the Secretary, LR 25:661 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2448 (November 2000), LR 30:

#### **§519. Permit Issuance Procedures for New Facilities, Initial Permits, Renewals and Significant Modifications**

A. - A.1.b. ...

2. The applicant shall submit any additional information requested by the date specified in such notice. Pursuant to LAC 33:I.Chapter 15, for any application pertaining to a *new facility* or to a *substantial permit modification*, the date specified for submittal shall be no later than 30 days from receipt of the notice of deficiency.

3. ...

4. Pursuant to LAC 33:I.Chapter 15, for any application pertaining to a *new facility* which will be a major source or to a *substantial permit modification*, the applicant shall publish a notice of the completeness determination in a major local newspaper.

B. - C.3. ...

4. Notwithstanding the 18-month allowance in Paragraph C.3 of this Section, final action shall be taken on any application relating to a *new facility* or to a *substantial permit modification*, as defined in LAC 33:I.Chapter 15, within 410 days of receipt of the permit application.

5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2022 and 2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:

#### **§527. Significant Modifications**

A. - B.3. ...

4. Pursuant to LAC 33:I.Chapter 15, for any application pertaining to a *substantial permit modification* (as defined in LAC 33:I.Chapter 15), the applicant shall publish a notice of completeness determination in a major local newspaper once the application for permit revision is deemed complete.

5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2022 and 2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), amended LR 20:1375 (December 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:

#### **Chapter 27. Asbestos-Containing Materials in Schools and State Buildings Regulation**

##### **§2723. Management Plans**

A. ...

1. Each local education agency or the state government shall develop an asbestos management plan for each school, including all buildings that are leased, owned, or otherwise used as school or state buildings, and submit the plan to the Office of Environmental Services, Permits Division. After June 20, 1994, each plan must include Form AAC-8, Required Elements for Management Plans (latest revised form can be obtained from the Office of Environmental Services, Permits Division or through the department's website). The plan may be submitted in stages that cover portions of the school or state building under the authority of the local education agency or the state government before the deadline specified in LAC 33:III.2701.C.

A.2. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2344 and 40:1749.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 15:735 (September 1989), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:649 (June 1994), LR 22:700 (August 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2457 (November 2000), LR 30:

##### **§2799. Appendix AC Agent Accreditation Plan**

The duration of initial and refresher training courses is specified in numbers of days. A day of training equals eight consecutive hours, including breaks and lunch.

In several instances, initial training courses for a specific discipline (e.g., workers, inspectors) require hands-on training. For asbestos abatement supervisors and workers, hands-on training should include working with asbestos-substitute materials, fitting and using respirators, use of glove-bags, donning protective clothing, constructing a decontamination unit, as well as other abatement work activities. Hands-on training must permit all supervisors and workers to have actual experience performing tasks associated with asbestos abatement. For inspectors, hands-on training should include conducting a simulated building walk-through inspection and respirator fit testing.

Training requirements for each of the five accredited disciplines are outlined below. Persons in each discipline perform a different job function and distinct role. Inspectors identify and assess the condition of ACBM, or suspect ACBM. Management planners use data gathered by inspectors to assess the degree of hazard posed by ACBM in schools to determine the scope and timing of appropriate response actions needed for schools. Project designers determine how asbestos abatement work should be conducted. Lastly, workers and contractor/supervisors carry out and oversee abatement work. Each accredited discipline and training curriculum is separate and distinct from the others. A person seeking accreditation in any of the five accredited MAP disciplines cannot attend two or more courses concurrently, but may attend such courses sequentially. All courses, both initial and refresher, shall be completed within 14 days of the commencement of the course.

A. - E.2. ...

a. A completed Asbestos Accreditation Affidavit, Form AAC-1 (which may be obtained from the Office of Environmental Services, Permits Division or through the department's website) that contains:

E.2.a.i. - F. ...

1. Submit the latest revision of the Asbestos Training Organization Recognition Application, Form AAC-3, (which may be obtained from the Office of Environmental Services, Permits Division or through the department's website) requesting approval to train asbestos agents.

2. - 5.k.v. ...

6. Applications for trainer recognition shall be completed using the latest revision of the Asbestos Trainer Recognition Form, AAC-4 (latest revision of the form may be obtained from the Office of Environmental Services, Permits Division or through the department's website). A resume indicating proof of experience as described in Clause F.2.d.ii of this Appendix must be attached. The completed application with applicable fees (LAC 33:III.223) is to be sent to the Office of Environmental Services, Permits Division.

7. - 9.e.iii. ...

[NOTE: Repealed.]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2344 and 40:1749.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 15:735 (September 1989), amended LR 16:397 (May 1990), LR 16:1057 (December 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:649 (June 1994), LR 22:700 (August 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2458 (November 2000), LR 30:

**Chapter 28. Lead-Based Paint Activities C Recognition, Accreditation, Licensure, and Standards for Conducting Lead-Based Paint Activities**

**§2803. Definitions**

A. The terms used in this Chapter are defined in LAC 33:III.111 of these regulations with the exception of those terms specifically defined in this Section as follows.

\* \* \*

*Permanently Covered Soil* Csoil that has been separated from human contact by the placement of a barrier consisting of solid, relatively impermeable materials, such as asphalt, pavement, or concrete. Grass, mulch, and other landscaping materials that are permeable are not considered permanent covering.

*Person* Cany individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, political subdivision, governmental body, including the state and the federal government and its agencies, or any other legal entity or their legal representatives, agents, or assignees.

*Personal Protection Equipment (PPE)* Cspecialized clothing and equipment including, but not limited to, respirators, masks, and gloves designed to protect workers against chemical and physical hazards.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 2351 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1663 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:2335 (November 2002), LR 30:

**Chapter 51. Comprehensive Toxic Air Pollutant Emission Control Program**

**Subchapter M. Asbestos**

**§5151. Emission Standard for Asbestos**

A. - F.2. ...

a. provide the Office of Environmental Services, Permits Division with typed notice of intention to demolish or renovate using the latest version of Form AAC-2, Notification of Demolition and Renovation. This form is available from the Office of Environmental Services, Permits Division or through the department's website. Delivery of the notice by U.S. Postal Service, commercial delivery service, or hand delivery is acceptable. The use of a prior version of the AAC-2 Form is acceptable unless the department has previously provided the owner or operator with a copy of the current version, or the owner or operator is aware of the latest version.

F.2.b. - I. ...

1. deposit all asbestos-containing waste material at a waste disposal site recognized by the department. A completed AAC-7 Form shall have been submitted to the Office of Environmental Services, Permits Division by the disposal facility for prior recognition. Updated information will be required upon request. The latest AAC-7 Form may be obtained from the Office of Environmental Services, Permits Division or through the department's website. The Office of Environmental Services, Permits Division will maintain a current list of recognized asbestos waste disposal sites;

I.2. - P.2.b. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), repealed and repromulgated LR 18:1121 (October 1992), amended LR 20:1277 (November 1994), LR 24:27 (January 1998), amended

by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2462 (November 2000), LR 30:

**Part V. Hazardous Waste and Hazardous Materials**

**Subpart 1. Department of Environmental Quality Hazardous Waste**

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

**§303. Overview of the Permit Program**

A. - A.1. ...

2. No later than 90 days after the promulgation or revision of these regulations, all generators and transporters of hazardous waste, and all owners or operators of hazardous waste treatment, storage, or disposal facilities must file or have on file a notification of that activity using Notification Form HW-1, available from the Office of Environmental Services, Permits Division or through the department's website. For generators of hazardous waste, the Notification Form HW-1 shall be deemed a registration upon acceptance and approval by the administrative authority.

A.3. - Q. ...

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 14:790 (November 1988), LR 16:220 (March 1990), LR 17:478 (May 1991), LR 17:658 (July 1991), LR 20:1000 (September 1994), LR 21:564 (June 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2466 (November 2000), LR 27:708 (May 2001), LR 30:

**Chapter 37. Financial Requirements**

**Subchapter F. Financial and Insurance Instruments**

**§3719. Wording of the Instruments**

A. - C. ...

D. Letter of Credit. A letter of credit, as specified in LAC 33:V.3707.D or 3711.D or 4403.C or 4407.C must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted.

**IRREVOCABLE STANDBY LETTER OF CREDIT**

Secretary  
Louisiana Department of Environmental Quality  
Post Office Box 4303  
Baton Rouge, Louisiana 70821-4303  
Attention: Office of Management and Finance, Financial Services Division  
Dear [Sir or Madam]:

\* \* \*

[See Prior Text in Letter]

E. ...

F. Closure Guarantee. A letter from the chief financial officer, as specified in LAC 33:V:3707.F.3 or 3711.F.3 or 4403.E.3 or 4407.E.3 must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted.

**LETTER FROM CHIEF FINANCIAL OFFICER**

Secretary  
Louisiana Department of Environmental Quality  
Post Office Box 4303  
Baton Rouge, Louisiana 70821-4303

Attention: Office of Management and Finance, Financial Services Division

Dear [Sir or Madam]:

\* \* \*

[See Prior Text in Letter]

G. Liability Coverage Guarantee. A letter from the chief financial officer, as specified in LAC 33:V.3715.F or 4411, must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted.

Secretary  
Louisiana Department of Environmental Quality  
Post Office Box 4303  
Baton Rouge, Louisiana 70821-4303  
Attention: Office of Management and Finance, Financial Services Division  
Dear [Sir or Madam]:

\* \* \*

[See Prior Text in Letter]

**H. Corporate Guarantees**

1. A corporate guarantee, as specified in LAC 33:V.3707.F or 3711.F or 4403.E or 4407.E must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the bracket deleted.

**CORPORATE GUARANTEE FOR CLOSURE OR POST-CLOSURE CARE**

Guarantee made this [date] by [name of guaranteeing entity], a business corporation organized under the laws of the State of [insert name of State], herein referred to as guarantor, to the Louisiana Department of Environmental Quality, obligee, on behalf of [owner or operator] of [business address], which is [one of the following: "our subsidiary"; "a subsidiary of (name and address of common parent corporation), of which guarantor is a subsidiary"; or "an entity with which guarantor has a substantial business relationship, as defined in LAC 33:V.3703.A.8 or 4399"].

\* \* \*

[See Prior Text in Guarantee]

H.2. - J. ...

K. Letter of Credit. A letter of credit, as specified in LAC 33:V.3715 or 4411, must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted.

**IRREVOCABLE STANDBY LETTER OF CREDIT**

Secretary  
Louisiana Department of Environmental Quality  
Post Office Box 4303  
Baton Rouge, Louisiana 70821-4303  
Attention: Office of Management and Finance, Financial Services Division  
Dear [Sir or Madam]:

\* \* \*

[See Prior Text in Letter]

L. - N.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180.

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 11:686 (July 1985), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 16:47 (January 1990), LR 18:723 (July 1992), LR 21:266 (March 1995), LR 22:835 (September 1996), amended by the Office of Waste Services,

Hazardous Waste Division, LR 23:1514 (November 1997), repromulgated LR 23:1684 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2493 (November 2000), LR 30:

**Part VI. Inactive and Abandoned Hazardous Waste and Hazardous Substance Site Remediation**

**Chapter 9. Voluntary Remediation**

**§911. Application Process**

A. ...

1. a Voluntary Remedial Investigation Application Form VCP001, available from the Office of Environmental Assessment, Remediation Services Division and on the department's website, with required attachments, accompanied by the remedial investigation work plan review fee; and

A.2. - B. ...

1. a Voluntary Remediation Application Form VCP002, available from the Office of Environmental Assessment, Remediation Services Division and on the department's website, with required attachments, accompanied by the remedial action plan review fee;

B.2. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2285 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 27:516 (April 2001), amended LR 30:

**Part VII. Solid Waste**

**Subpart 1. Solid Waste Regulations**

**Chapter 5. Solid Waste Management System**

**Subchapter A. Administration, Classification, and Inspection Procedures**

**§503. Notification**

A. Notification

1. Except as provided for in Paragraph A.2 of this Section, persons who generate industrial solid waste and/or persons who transport, process, or dispose of solid waste shall, within 30 days after they become subject to these regulations, notify the Office of Environmental Services, Permits Division in writing of such activity. A form to be used for notification shall be obtained from the Office of Environmental Services, Permits Division or through the department's website.

2. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2517 (November 2000), LR 30:

**Chapter 7. Solid Waste Standards**

**Subchapter A. General Standards**

**§701. Standards Governing Industrial Solid Waste Generators**

A. - A.1. ...

2. The generator's annual report shall name the transporter(s) who removed the industrial solid waste from the generator's site and the permitted solid waste processing or disposal facility or facilities that processed or disposed of the waste. The form to be used shall be obtained from the department or through the department's website.

A.3. - B.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2521 (November 2000), repromulgated LR 27:703 (May 2001), amended LR 30:

**Subchapter B. Landfills, Surface Impoundments, Landfills**

**§711. Standards Governing Landfills (Type I and II)**

A. - C.1.a. ...

i. The permit holder shall submit annual reports to the Office of Management and Finance, Financial Services Division indicating quantities and types of solid waste (expressed in wet-weight tons per year), received from in-state generators and from out-of-state generators, during the reporting period. The annual report shall also indicate the estimated remaining permitted capacity at the facility as of the end of the reporting period (expressed in wet-weight tons). All calculations used to determine the amounts of solid waste received for disposal during the annual-reporting period and to determine remaining capacity shall be submitted to the administrative authority. A form to be used for this purpose must be obtained from the Office of Management and Finance, Financial Services Division or through the department's website.

C.1.a.ii. - F.3.d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 19:1143 (September 1993), repromulgated LR 19:1316 (October 1993), amended by the Office of the Secretary, LR 24:2251 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2523 (November 2000), repromulgated LR 27:704 (May 2001), amended LR 30:

**§713. Standards Governing Surface Impoundments (Type I and II)**

A. - C.1.a. ...

i. The permit holder shall submit annual reports to the Office of Management and Finance, Financial Services Division indicating quantities and types of solid waste (expressed in wet-weight tons per year), received from in-state generators and from out-of-state generators, during the reporting period. If applicable, the annual report shall also indicate the estimated remaining permitted capacity at the facility as of the end of the reporting period (expressed in wet-weight tons). All calculations used to determine the amounts of solid waste received for disposal and to determine remaining capacity during the annual-reporting period shall be submitted to the administrative authority. A form to be used for this purpose must be obtained from the Office of Management and Finance, Financial Services Division or through the department's website.

C.1.a.ii. - F.2.b.iv. ...

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 26:2524 (November 2000), repromulgated LR 27:704 (May 2001), amended LR 30:

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

A. - C.1.a. ...

i. The permit holder shall submit annual reports to the Office of Management and Finance, Financial Services Division indicating quantities and types of solid waste (expressed in wet-weight and dry-weight tons per year) received from in-state generators and from out-of-state generators during the reporting period. The annual report shall also indicate the estimated remaining permitted capacity at the facility as of the end of the reporting period (expressed in wet-weight tons). All calculations used to determine the amounts of solid waste received for disposal during the annual-reporting period shall be submitted to the administrative authority. A form to be used for this purpose must be obtained from the Office of Management and Finance, Financial Services Division or through the department's website.

C.1.a.ii. - 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:

#### **Subchapter C. Solid Waste Processors**

#### **§717. Standards Governing All Solid Waste Processors (Type IA and II-A)**

A. - F.1.a. ...

i. The permit holder shall submit annual reports to the Office of Management and Finance, Financial Services Division indicating quantities and types of solid waste (expressed in wet-weight tons per year), received from in-state generators and from out-of-state generators, during the reporting period. All calculations used to determine the amounts of solid waste received for processing during the annual-reporting period shall be submitted to the administrative authority. A form to be used for this purpose must be obtained from the Office of Management and Finance, Financial Services Division or through the department's website.

F.1.a.ii. - I.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, LR 24:2252 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2526, 2610 (November 2000), repromulgated LR 27:704 (May 2001), amended LR 30:

#### **Subchapter D. Minor Processing and Disposal Facilities**

#### **§721. Construction and Demolition Debris and Woodwaste Landfills and Processing Facilities (Type III)**

A. - B.1.a. ...

i. The permit holder shall submit annual reports to the Office of Management and Finance, Financial Services Division indicating quantities and types of solid waste (expressed in wet-weight tons per year), received from in-state generators and from out-of-state generators, during the reporting period. All calculations used to determine the amounts of solid waste received for processing or disposal during the annual-reporting period shall be submitted to the administrative authority. A form to be used for this purpose must be obtained from the Office of Management and Finance, Financial Services Division or through the department's website.

B.1.a.ii. - E.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 20:1001 (September 1994), amended by the Office of the Secretary, LR 24:2252 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2527 (November 2000), repromulgated LR 27:705 (May 2001), amended LR 30:

#### **§723. Composting Facilities (Type III)**

A. - B.1.a. ...

i. The permit holder shall submit annual reports to the Office of Management and Finance, Financial Services Division indicating quantities and types of solid waste (expressed in wet-weight tons per year), received from in-state generators and from out-of-state generators, during the reporting period. All calculations used to determine the amounts of solid waste received for processing during the annual-reporting period shall be submitted to the administrative authority. A form to be used for this purpose must be obtained from the Office of Management and Finance, Financial Services Division or through the department's website.

B.1.a.ii. - D.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 20:1001 (September 1994), amended by the Office of the Secretary, LR 24:2252 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2528 (November 2000), repromulgated LR 27:705 (May 2001), amended LR 30:

#### **§725. Separation and Woodwaste Processing Facilities (Type III)**

A. - B.1.a. ...

i. The permit holder shall submit annual reports to the Office of Management and Finance, Financial Services Division indicating quantities and types of solid waste (expressed in wet-weight tons per year), received from in-state generators and from out-of-state generators, during the reporting period. All calculations used to determine the amounts of solid waste received for processing during the annual-reporting period shall be submitted to the administrative authority. A form to be used for this purpose must be obtained from the Office of Management and Finance, Financial Services Division or through the department's website.

B.1.a.ii. - D.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 20:1001 (September 1994), LR 22:280 (April 1996), amended by the Office of the Secretary, LR 24:2252 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2528 (November 2000), repromulgated LR 27:705 (May 2001), amended LR 30:

**Subchapter E. Financial Assurance for All Processors and Disposers of Solid Waste**

**§727. Financial Assurance**

A. - A.1.d.i.(c).(vi). ...

(d). the wording of the liability endorsement shall be identical to the wording that follows, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

SOLID WASTE FACILITY LIABILITY ENDORSEMENT  
Secretary  
Louisiana Department of Environmental Quality  
Post Office Box 4303  
Baton Rouge, Louisiana 70821-4303  
Attention: Office of Management and Finance, Financial Services Division

Dear Sir:

\* \* \*

[See Prior Text in Endorsement]

(e). the wording of the certificate of insurance shall be identical to the wording that follows, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

SOLID WASTE FACILITY CERTIFICATE OF LIABILITY INSURANCE  
Secretary  
Louisiana Department of Environmental Quality  
Post Office Box 4303  
Baton Rouge, Louisiana 70821-4303  
Attention: Office of Management and Finance, Financial Services Division

Dear Sir:

\* \* \*

[See Prior Text in Certificate]

1.d.ii. - 1.d.ii.(d). ....

(e). The wording of the letter of credit shall be identical to the wording that follows, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

SOLID WASTE FACILITY IRREVOCABLE LETTER OF CREDIT  
Secretary  
Louisiana Department of Environmental Quality  
Post Office Box 4303  
Baton Rouge, Louisiana 70821-4303  
Attention: Office of Management and Finance, Financial Services Division

Dear Sir:

\* \* \*

[See Prior Text in Certificate]

1.d.iii. - 2.g.vii. ...

viii. The wording of the letter of credit shall be identical to the wording that follows, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

SOLID WASTE FACILITY IRREVOCABLE LETTER OF CREDIT  
Secretary  
Louisiana Department of Environmental Quality  
Post Office Box 4303  
Baton Rouge, Louisiana 70821-4303  
Attention: Office of Management and Finance, Financial Services Division

Dear Sir:

\* \* \*

[See Prior Text in Letter]

2.h. - 2.i.iv.(d). ...

(e). The wording of the letter from the chief financial officer shall be identical to the wording as follows, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

SOLID WASTE FACILITY LETTER FROM THE CHIEF FINANCIAL OFFICER  
(Liability Coverage, Closure, and/or Post-Closure)

Secretary

Louisiana Department of Environmental Quality  
Post Office Box 4303  
Baton Rouge, Louisiana 70821-4303  
Attention: Office of Management and Finance, Financial Services Division

Dear Sir:

\* \* \*

[See Prior Text in Letter]

A.2.i.v. - B.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 19:1143 (September 1993), LR 19:1316 (October 1993), amended by the Office of Waste Services, Solid Waste Division, LR 23:954 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2529 (November 2000), repromulgated LR 27:39 (January 2001), amended LR 30:

**Chapter 11. Beneficial-Use Facilities**  
**§1109. Standards Governing Beneficial-Use Facilities**

A. - F.1.a. ...

i. The permit holder shall submit annual reports to the Office of Management and Finance, Financial Services Division indicating quantities and types of solid waste beneficially used, (expressed in wet-weight tons and dry-weight tons per year), during the reporting period. All calculations used to determine the amounts of solid waste received for processing or disposal during the annual reporting period shall be submitted to the administrative authority. A form for this purpose must be obtained from the Office of Management and Finance, Financial Services Division or through the department's website.

F.1.a.ii. - H.2. ...

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 Environmental Assessment, Environmental Planning Division, LR 26:2536 (November 2000), repromulgated LR 27:40 (January 2001), LR 27:705 (May 2001), amended LR 30:

**Chapter 30. Appendices**  
**§3001. Appendix A**

A. Example of a Public Notice to be Placed in the Local Newspaper for Intention to Submit a Permit Application to the Office of Environmental Services, Permits Division for Existing/Proposed Solid Waste Facilities

Public Notice  
of  
Intent To Submit Permit Application  
(Name of Applicant/Facility)  
Facility (location), Parish (location), Louisiana

Notice is hereby given that (name of applicant) does intend to submit to the Department of Environmental Quality, Office of Environmental Services, Permits Division, an application for a permit to operate a (type of solid waste facility) in (parish name), Range\_\_, Township\_\_, Section\_\_, which is approximately (identify the physical location of the site by direction and distance from the nearest town).

Comments concerning the facility may be filed with the secretary of the Louisiana Department of Environmental Quality at the following address:

Louisiana Department of Environmental Quality  
Office of Environmental Services  
Permits Division  
Post Office Box 4313  
Baton Rouge, Louisiana 70821-4313

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 Environmental Assessment, Environmental Planning Division, LR 26:2536 (November 2000), LR 30:

### Subpart 2. Recycling

## Chapter 111. Appendices

### §11101. Appendix A

#### Louisiana Department Of Environmental Quality Financial Assurance Documents For Waste Tire Facilities (August 4, 1994)

The following documents are to be used to demonstrate financial responsibility for the closure of waste tire facilities. The wording of the documents shall be identical to the wording that follows, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

SAMPLE DOCUMENT 1. - SAMPLE DOCUMENT 2. ...

#### SAMPLE DOCUMENT 3:

#### WASTE TIRE FACILITY IRREVOCABLE LETTER OF CREDIT

Secretary  
Louisiana Department of Environmental Quality  
Post Office Box 4303  
Baton Rouge, Louisiana 70821-4303  
Attention: Office of Management and Finance, Financial  
Services Division

Dear Sir:

\* \* \*

[See Prior Text in Document]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 20:1001 (September 1994), amended LR 22:1214 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2782 (December 2000), LR 27:832 (June 2001), LR 30:

### Part IX. Water Quality

#### Subpart 1. Water Pollution Control

## Chapter 15. Water Quality Certification Procedures

### §1507. Procedures for Issuance of Water Quality Certification

A. - C.3. ...

D. Public Notice Requirements

1. Notice by Publication. Within 10 days after the review process is completed by the administrative authority, the applicant will be sent a public notice. The applicant shall publish the public notice one time in the official journal of the state and one time in at least one or more, at the

discretion of the administrative authority, local newspapers or journals of general circulation in each parish in which the activity is to be conducted.

a. *The Advocate* of Baton Rouge is the official journal of the state.

D.1.b. - E.2. ...

3. Hearing Location. Every hearing held pursuant to this Section shall be held before the administrative authority at a location convenient to the nearest population center affected by the proposed certification, unless the administrative authority specifically designates some other location.

E.4. - H.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(A)(3).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:496 (July 1984), amended by the Office of the Secretary, LR 22:345 (May 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2550 (November 2000), LR 29:690 (May 2003), LR 29:2052 (October 2003), LR 30:

### Subpart 2. The Louisiana Pollutant Discharge Elimination System (LPDES) Program Chapter 25. Permit Application and Special LPDES Program Requirements

#### §2501. Application for a Permit

A. - A.2. ...

a. All applicants for LPDES permits must submit applications on either state- or EPA-approved permit application forms. More than one application form may be required from a facility depending on the number and types of discharges or outfalls found there. Application forms may be obtained by contacting the Office of Environmental Services, Permits Division or may be obtained electronically through the department's website.

A.2.b. - R.4.h. ...

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 23:723 (June 1997), amended by the Office of the Secretary, LR 25:661 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2552 (November 2000), LR 26:2756 (December 2000), LR 27:45 (January 2001), LR 28:465 (March 2002), LR 28:1766 (August 2002), LR 29:1462 (August 2003), repromulgated LR 30:230 (February 2004), amended LR 30:

## Chapter 67. Financial Security

### §6703. Acceptable Form of Financial Security

A. - A.1. ...

a. the bond must be submitted to the department at the following address: Louisiana Department of Environmental Quality, Office of Management and Finance, Financial Services Division, Box 4303, Baton Rouge, LA 70821-4303;

1.b. - 2. ...

a. the letter of credit must be submitted to the department at the following address: Louisiana Department of Environmental Quality, Office of Management and Finance, Financial Services Division, Box 4303, Baton Rouge, LA 70821-4303;

b. - c. ...

d. the wording of the letter of credit shall be identical to the wording that follows, except that the

instructions in brackets are to be replaced with the relevant information and the brackets deleted:

IRREVOCABLE LETTER OF CREDIT

Secretary  
Louisiana Department of Environmental Quality  
Financial Services Division  
Post Office Box 4303  
Baton Rouge, Louisiana 70821-4303  
Dear Sir:

\*\*\*

[See Prior Text in Letter]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Sections 2074(B)(3) and (4) and 2075.2.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 27:46 (January 2001), repromulgated LR 30:233 (February 2004), amended LR 30:

Chapter 71. Appendices

§7129. Appendix OCLPDES Permit Testing

Requirements for Publicly Owned Treatment Works (LAC 33:IX.2501.J)

Table 1A. - Table 1. ...

Table 2C Effluent Parameters for Selected POTWS		
Common Name	Universal Name	CAS #
*** [See Prior Text in Hardness - 2,4,6-trichlorophenol]		
Base-Neutral Compounds		
*** [See Prior Text in Acenaphthene - Hexachlorocyclopentadiene]		
Hexachloroethane		67-72-1
*** [See Prior Text in Indeno(1,2,3-cd)pyrene - 1,2,4-trichlorobenzene]		

NOTE: If no universal name is listed, the common name and the universal name are the same.

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 Environmental Assessment, Environmental Planning Division, LR 26:2765 (December 2000), repromulgated LR 30:233 (February 2004), amended LR 30:

§7135. Appendix RC Financial Assurances Documents

Document 1. Liability Endorsement

COMMERCIAL BLENDER, COMPOSTER, OR MIXER OF SEWAGE SLUDGE LIABILITY ENDORSEMENT

Secretary  
Louisiana Department of Environmental Quality  
Post Office Box 4303  
Baton Rouge, Louisiana 70821-4303  
Attention: Office of Management and Finance, Financial Services Division  
Dear Sir:

\*\*\*

[See Prior Text in Endorsement]

Document 2. Certificate of Insurance

COMMERCIAL BLENDER, COMPOSTER, OR MIXER OF SEWAGE SLUDGE FACILITY CERTIFICATE OF LIABILITY INSURANCE

Secretary  
Louisiana Department of Environmental Quality  
Post Office Box 4303  
Baton Rouge, Louisiana 70821-4303  
Attention: Office of Management and Finance, Financial Services Division  
Dear Sir:

\*\*\*

[See Prior Text in Certificate]

Document 3. Letter of Credit

COMMERCIAL BLENDER, COMPOSTER, OR MIXER OF SEWAGE SLUDGE FACILITY IRREVOCABLE LETTER OF CREDIT

Secretary  
Louisiana Department of Environmental Quality  
Post Office Box 4303  
Baton Rouge, Louisiana 70821-4303  
Attention: Office of Management and Finance, Financial Services Division  
Dear Sir:

\*\*\*

[See Prior Text in Letter]

Document 4. Trust Agreement - Document 6. Performance Bond ...

Document 7. Letter of Credit

COMMERCIAL BLENDER, COMPOSTER, OR MIXER OF SEWAGE SLUDGE FACILITY IRREVOCABLE LETTER OF CREDIT

Secretary  
Louisiana Department of Environmental Quality  
Post Office Box 4303  
Baton Rouge, Louisiana 70821-4303  
Attention: Office of Management and Finance, Financial Services Division  
Dear Sir:

\*\*\*

[See Prior Text in Letter]

Document 8. Certificate of Insurance ...

Document 9. Letter from the Chief Financial Officer

COMMERCIAL BLENDER, COMPOSTER, OR MIXER OF SEWAGE SLUDGE FACILITY LETTER FROM THE CHIEF FINANCIAL OFFICER (LIABILITY COVERAGE, CLOSURE, AND/OR POST-CLOSURE)

Secretary  
Louisiana Department of Environmental Quality  
Post Office Box 4303  
Baton Rouge, Louisiana 70821-4303  
Attention: Office of Management and Finance, Financial Services Division  
Dear Sir:

Secretary  
Louisiana Department of Environmental Quality  
Post Office Box 4303  
Baton Rouge, Louisiana 70821-4303  
Attention: Office of Management and Finance, Financial Services Division  
Dear Sir:

\*\*\*

[See Prior Text in Letter]

Document 10. Corporate Guarantee. ...

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 Environmental Assessment, Environmental Planning Division, LR 28:818 (April 2002), repromulgated LR 30:233 (February 2004), amended LR 30:

Part XV. Radiation Protection

Chapter 4. Standards for Protection Against Radiation

Subchapter J. Reports

§486. Notification of Incidents

A. - B.2. ...

C. Licensees or registrants shall make the reports required by Subsections A and B of this Section through initial contact by telephone and shall confirm the initial contact by telegram, mailgram, or facsimile to the Office of Environmental Compliance or by e-mail utilizing the Incident Report Form and procedures found on the department's website under the key subject title "Surveillance."

D. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November



1993), amended LR 22:973 (October 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2579 (November 2000), LR 26:2770 (December 2000), LR 30:

**Chapter 5. Radiation Safety Requirements for Industrial Radiographic Operations**  
**Subchapter B. Personal Radiation Safety Requirements for Radiographers**

**§575. Training and Testing**

A. - A.2.c. ...

d. The current Form DRC-20, available from the department or the department's website, must be submitted to the Office of Environmental Services, Permits Division documenting the on-the-job training.

A.3. - B.5. ...

6. The current Form DRC-20, available from the department or the department's website, must be submitted to the Office of Environmental Services, Permits Division documenting the on-the-job training, instruction in the subjects outlined in Appendix A in this Chapter, and successful completion of a company-specific written examination.

B.7. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), LR 20:999 (September 1994), LR 23:1138 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2583 (November 2000), LR 27:1235 (August 2001), LR 28:1951 (September 2002), LR 29:34 (January 2003), LR 29:1470 (August 2003), LR 30:

**Chapter 15. Transportation of Radioactive Material**  
**§1516. Advance Notification of Transport of Nuclear Waste**

A. Prior to the transport of any nuclear waste outside of the confines of the licensee's facility or other place of use or storage, or prior to the delivery of any nuclear waste to a carrier for transport, each licensee shall provide advance notification of such transport to the governor, or governor's designee, of each state through which the waste will be transported. A list of the mailing addresses of the governors and governors' designees is available upon request from the director, Office of State Programs, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. In Louisiana, the governor's designee is the secretary of the Department of Environmental Quality.

B. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1270 (June 2000), LR 26:2602 (November 2000), LR 30:

A public hearing will be held on June 24, 2004, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room C111, 602 North 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 Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Free parking is available across the street in the Galvez parking garage when the parking ticket is validated by department personnel at the hearing.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by OS055. Such comments must be received no later than July 1, 2004, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of Environmental Assessment, Environmental Planning Division, Regulation Development Section, Box 4314, Baton Rouge, LA 70821-4314 or to fax (225) 219-3582 or by e-mail to [judith.schuerman@la.gov](mailto:judith.schuerman@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 OS055.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 North 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; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374 or on the Internet at <http://www.deq.louisiana.gov/planning/regs/index.htm>.

James H. Brent, Ph.D.  
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**  
**RULE TITLE: Correction of Departmental Website and Mailing Addresses; Outdated References, and Miscellaneous Errors**

**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 by the proposed 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 by the proposed rule.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

There are no estimated costs or economic benefits to directly affected persons or non-governmental groups by the proposed rule.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There is no estimated effect on competition and employment by the proposed rule.

James H. Brent, Ph.D.  
Assistant Secretary  
0405#019

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

Interpollutant Trading (LAC 33:III.504) (AQ242)

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.504 (Log #AQ242).

This rule revision proposes to disallow interpollutant trading and repeals the option of using creditable nitrogen oxide (NO<sub>x</sub>) reductions to offset significant increases of volatile organic compounds (VOC). The Baton Rouge ozone nonattainment area has not attained the one-hour ozone air quality standard. Some exceedances in the area characterized by rapid ozone formation may have been caused by releases of highly reactive VOC. The rule revision is proposed to prevent possible increases in these types of occurrences. The basis and rationale of this proposed Rule revision is to provide more protection for air quality in the Baton Rouge ozone nonattainment area.

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

### Title 33 ENVIRONMENTAL QUALITY Part III. Air

#### Chapter 5. Permit Procedures

##### §504. Nonattainment New Source Review Procedures

A. - E.5. ...

F. Emission Offsets. All emission offsets approved by the department shall be surplus, permanent, quantifiable, and enforceable in accordance with LAC 33.III.Chapter 6 and shall meet the following criteria.

1. All emission reductions claimed as offset credit shall be from decreases of the same pollutant or pollutant class (e.g., VOC) for which the offset is required. Interpollutant trading, for example using a NO<sub>x</sub> credit to offset a VOC emission increase, is not allowed. Offsets shall be required at the ratio specified in Table 1 of this Section.

F.2. - G.Table 1.Note "PM<sub>10</sub>". ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:176 (February 1993), repromulgated LR 19:486 (April 1993), amended LR 19:1420 (November 1993), LR 21:1332 (December 1995), LR 23:197 (February 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2445 (November 2000), LR 27:2225 (December 2001), LR 30:752 (April 2004), LR 30:

A public hearing will be held on June 24, 2004, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference

Room C111, 602 North 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 Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Free parking is available across the street in the Galvez parking garage when the parking ticket is validated by department personnel at the hearing.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ242. Such comments must be received no later than July 1, 2004, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of Environmental Assessment, Environmental Planning Division, Regulation Development Section, Box 4314, Baton Rouge, LA 70821-4314 or to fax (225) 219-3582 or by e-mail to [judith.schuerman@la.gov](mailto:judith.schuerman@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 AQ242.

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; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374 or on the Internet at <http://www.deq.louisiana.gov/planning/regis/index.htm>.

James H. Brent, Ph.D.  
Assistant Secretary

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Interpollutant Trading

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no implementation costs or savings to state or local governmental units as a result of this Rule.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is estimated that there is no effect on revenue collections of state or local governmental units.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

It is estimated that there will be no costs and/or economic benefits to directly affected persons or non-governmental groups as a result of this Rule.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is estimated that there will be no costs and/or economic benefits to directly affected persons or non-governmental groups as a result of this rule.

James H. Brent, Ph.D.  
Assistant Secretary  
0405#015

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Office of the Governor**

**Board of River Port Pilot Commissioners and Examiners  
Calcasieu River Waterway**

Annual Board Meeting (LAC 46:LXX.9105)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Board of River Port Pilot Commissioners and Examiners, Calcasieu River Waterway hereby gives notice of intent to promulgate rules regarding LAC 46:LX.9105, Rules, Records, Meetings and Association to change meeting dates and times. The proposed Rule amendment have no known impact on family formation, stability, or autonomy as described in R.S. 49:972. The proposed amendment to the Rule is set forth below.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part LXX. River Pilots**

**Subpart 10. Board of River Port Pilot Commissioners  
and Examiners**

**Chapter 91. Calcasieu River Waterway River Port  
Pilots**

**§9105. Rules, Records, Meetings, Association**

A. - C. ...

D. The board shall hold a regular annual meeting on the fourth Monday of January of each year at 10 a.m. for the purpose of electing officers and conducting any other business as may be appropriate. The board may hold such other meetings as are deemed appropriate and best to conduct the business of the board. The president alone or any two members of the board may call any meeting of the board. The president alone or any two members of the board may cancel any meeting of the board if the board has no business to conduct. All meetings of the board will be held at the board meeting room of The Lake Charles Harbor and Terminal District, 150 Marine Street, Lake Charles, Louisiana, or such other place as may be designated in the call of the meeting.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1072.

HISTORICAL NOTE: Promulgated by the Board of River Port Pilot Commissioners and Examiners, Calcasieu River Waterway, LR 28:1477 (June 2002), amended LR 30:

Interested parties may submit written comments no later than 5 p.m. on June 21, 2004 to Brett Palmer, 150 Marine Street, Lake Charles, LA 70601.

Brett Palmer  
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Annual Board Meeting**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

By adjusting the frequency of meetings, the Board of River Port Pilot Commissioners and Examiners may experience

fluctuations in cost for a stenographer to record meeting minutes. It is likely that fewer meetings will be necessary, resulting in a possible stenographer cost reduction. Circumstances could, however, conceivably call for more frequent Board meetings.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE  
OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule change will have no effect on revenue collection of state or local government units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO  
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL  
GROUPS (Summary)**

No additional costs to the general public or regulated pilots are related to this rulemaking. The proposed rule merely changes meeting dates of the Board of River Port Pilot Commissioners and Examiners of Calcasieu River Waterway.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)**

This proposed rule change would have no appreciable effect on competition and employment other than to change meeting dates of the Board of River Port Pilot Commissioners and Examiners of Calcasieu River Waterway.

Brett Palmer  
Chairman  
0405#059

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Office of the Governor  
Office of Elderly Affairs**

State Plan on Aging (LAC 4:VII.1301-1305)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Governor's Office of Elderly Affairs (GOEA) intends to repeal and amend LAC 4:VII.1301-1323.

The purpose of this amended Rule is to acknowledge that the Office of Elderly Affairs will develop a state plan that will be submitted to the U.S. Department of Health and Human Services, Administration on Aging to receive grants from its allotment under Title III of the Older Americans Act of 1965 as amended (the Act). Title III authorizes formula grants to state agencies on aging to assist states and local communities to develop comprehensive and coordinated systems for the delivery of services to older persons.

**Title 4**

**ADMINISTRATION**

**Part VII. Governor's Office**

**Chapter 13. State Plan on Aging**

**§1301. State Plan on Aging**

A. To receive funding from the Older Americans Act the State Agency on Aging must have an approved State Plan on Aging. This plan must be on file with the Administration on Aging and be available for public review. At the minimum, the plan must include:

1. identification by the state of the sole state agency that has been designated to develop and administer the plan;
2. statewide program objectives to implement the requirements under Title III of the Act and any objectives established by the commissioner through the rulemaking process;
3. a resource allocation plan indicating the proposed use of all Title III funds administered by the state agency and

the distribution of Title III funds to each planning and service area;

4. identification of the geographic boundaries of each planning and service area and of area agencies on aging;

5. prior federal fiscal year information related to low income minority and rural older individuals;

6. all assurances and provisions as outlined in the Older Americans Act and regulations, as well as the following assurances:

a. preference is given to older persons in greatest social or economic need in the provision of services under the plan;

b. procedures exist to ensure that all services under this part are provided without use of any means tests;

c. all services provided under Title III meet any existing state and local licensing, health and safety requirements for the provisions of those services;

d. older persons are provided opportunities to voluntarily contribute to the cost of services;

e. other such assurances as are needed for compliance with the Act, regulations, other applicable federal law, state statutes, and/or state policy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:932(8).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 11:342 (April 1985), amended LR 12:366 (June 1986), LR 12:511 (August 1986), LR 13:569 (October 1987), LR 17:1207 (December 1991), LR 19:1317 (October 1993), LR 23:1146 (September 1997), LR 26:1610 (August 2000), LR 30:

### §1303. Development of the State Plan

A. The state agency will develop a state plan according to the following:

1. elect to utilize a one-, two-, three-, or four-year format for the state plan;

2. develop a data profile on the older Louisianians from available census data;

3. conduct statewide needs assessment activities including, but not limited to, public hearings;

4. assurances for state and area agencies on aging as set forth by the Older Americans Act;

5. goals and objectives;

6. publicize public hearing(s) giving dates, times, locations to public officials and other interested parties for their participation;

7. conduct public hearings and incorporate written and verbal comments into the revised plan, as appropriate;

8. submit final revised plan for approval by the governor;

9. submit approved plan from the governor to the Administration on Aging Regional Office for approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:932(8).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 11:342 (April 1985), amended IR 12:366 (June 1986), LR 12:511 (August 1986), LR 13:569 (October 1987), LR 15:263 (April 1989), LR 17:1207 (December 1991), LR 19:1317 (October 1993), LR 23:1146 (September 1997), LR 26:1610 (August 2000), LR 30:

### §1305. Intrastate Funding Formula

A. Intrastate Funding Formula

1. The following is a descriptive summary of the current Intrastate Funding Formula's assumptions and goals, and the application of the definitions of greatest economic or

social need and a demonstration of the allocation of funds, pursuant to the formula, to each PSA.

#### 2. Descriptive Statement

a. The current intrastate funding formula for the distribution of Older Americans Act Title III funds in Louisiana provides for a base allocation by parish. The following factors are considered in the distribution of funds remaining after base allocations are made: population aged 60 and over; population aged 60 and over below the Bureau of the Census poverty threshold; population aged 75 and over; and land area in square miles. Each of these factors is derived by dividing the planning and service area total by the state total.

b. Population aged 60 and over, and land area in square miles is assigned weights of one each. Population aged 60 and over below the Bureau of the Census poverty threshold is assigned a weight of nine-tenths. Population aged 75 and over is assigned a weight of one-tenth. The sum of these four factors is three.

c. Those elderly in greatest economic need are defined as persons aged 60 and older whose incomes are at or below the poverty threshold established by the Bureau of the Census. Those elderly in greatest social need are defined as persons aged 60 and over who have needs based on noneconomic factors such as social isolation caused by living in remote areas, or who are especially vulnerable due to the heightened possibility of frailty among elderly aged 75 and older. Other social needs are those, which restrict an elderly individual's ability to perform normal daily tasks, or which restrict his or her ability to live independently; they can be caused by racial or ethnic status, or language barriers. The intra-state funding formula accounts for these individuals by not allocating funds solely on the basis of population. The land area in square miles factor is included to compensate area agencies serving predominantly rural areas for the special problems encountered by sparse populations who may be spread over large geographical areas. The four funding factors combine to meet the special needs of socially and economically needy elderly, urban elderly and rural elderly.

d. The base funding allocation of \$12,000 per parish is established on the assumption that this amount represents a minimum allocation for the administration of Older Americans Act programs. There is an increasing need to provide a continuum of care for the very old (aged 75 and older) as this segment of the population gets larger each year. Funding limitations dictate that this group is given special emphasis.

#### 3. Numerical Statement of the Intrastate Funding Formula

a. Base Allocation per PSA: \$12,000 per parish

b. Formula Allocation per PSA:

Factors	Weight
i. <u>PSA 60+Population</u> State 60+Population	1.0
ii. <u>PSA 60+Population below Poverty Threshold</u> State 60+Population below Poverty Threshold	0.9
iii. <u>PSA Land Mass in Square Miles</u> State Land Mass in Square Miles	1.0
iv. <u>PSA 75+Population</u> State 75+Population	<u>0.1</u>
v. Sum	3.0

$$4. \text{ PSA FORMULA} = \frac{(i) X 1 + (ii) X 0.9 + (iii) X 1 + (iv) X 0.1}{3}$$

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:932(8).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 11:342 (April 1985), amended LR 12:366 (June 1986), LR 12:511 (August 1986), LR 13:569 (October 1987), LR 17:1207 (December 1991), LR 19:1317 (October 1993), LR 23:1146 (September 1997), LR 26:1610 (August 2000), LR 30:

**§1307. - §1323. Reserved.**

**Family Impact Statement**

1. The Effect of this Rule on the Stability of the Family. This Rule does not affect 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 does not deal with the education or supervision of children and will not make an impact on the family.

3. The Effect of this Rule on the Functioning of the Family. This Rule does not affect the functioning of the family.

4. The Effect of this Rule on Family Earnings and Family Budget. This Rule will have no impact on the family earnings.

5. The Effect of this Rule on the Behavior and Personal Responsibility of Children. This Rule does not deal with children and will not have any impact.

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. Not applicable.

Interested persons should submit written comments on the proposed Rule to Margaret McGarity, Office of Elderly Affairs through the close of business on May 25, 2004 at 412 North Fourth Street, Third Floor, Baton Rouge, LA 70802.

Godfrey White  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: State Plan on Aging**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The only cost of implementation is the minimal cost of printing the plan and publishing the rulemaking. No saving to the state is anticipated, and there are no anticipated costs or savings to local governmental units. The Older American's Act requires that state units on aging to submit a new State Plan at least every four years. This plan is approved by the Administration on Aging before funding is released to the state unit on aging.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule will not affect revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

This proposed rule outlines the requirements of the state agency in fulfilling its mission as prescribed in the Older American's Act. There will be no additional costs to the Governor's Office of Elderly Affairs contractors and subcontractors, including area agencies on aging, parish councils on aging and other service providers, or the elderly

residents of the state. This proposed rule will not make any changes in the economic benefits to the elderly.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

This rule is not anticipated to have any effect on competition or employment in the public or private sectors.

Godfrey White  
Executive Director  
0405#038

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Office of the Secretary  
Bureau of Health Services Financing**

**Durable Medical Equipment Program  
Continuous Subcutaneous Insulin External Infusion Pumps  
(LAC 50:XVII.1915-1919)**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt LAC 50:XVII.1915-1919 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 provides coverage and reimbursement for continuous subcutaneous insulin external infusion pumps under the Durable Medical Equipment (DME) Program. The bureau now proposes to adopt criteria for the authorization of continuous subcutaneous insulin external infusion pumps.

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 implementation of this proposed Rule will have a positive impact on family functioning, stability, and autonomy as described in R.S. 49:972 as it will promote the health and welfare of Medicaid recipients by facilitating access to this medically necessary medical equipment.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following provisions governing the authorization of continuous subcutaneous insulin external infusion pumps.

**Title 50**

**PUBLIC HEALTHC MEDICAL ASSISTANCE**

**Part XVII. Durable Medical Equipment**

**Subpart 1. Prosthetics**

**Chapter 19. Diabetic Equipment and Supplies**

**Subchapter B. Continuous Subcutaneous Insulin External Infusion Pumps**

**§1915. Introduction**

A. A continuous subcutaneous insulin external infusion pump is a portable, battery operated, insulin pump. It is about the size and weight of a small pager. The pump delivers a continuous basal infusion of insulin. Insulin pumps can be automatically programmed for multiple basal rates over a 24-hour time period. This can be useful for such situations as nocturnal hypoglycemia and the dawn phenomenon. Before meals or at other times (e.g., hyperglycemia after unanticipated caloric intake), the pump

can be set to deliver a bolus of insulin, similar to taking an injection of pre-meal regular insulin for someone using multiple daily injections.

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:

#### **§1917. Prior Authorization**

A. Payment for a continuous subcutaneous insulin external infusion pump and related supplies will be authorized in the home setting, for treatment of Type I diabetes, when the following conditions are met.

1. The diabetes needs to be documented by a C-peptide level less than 0.5.

2. The pump must be ordered by and follow-up care of the patient must be managed by a physician who manages patients with continuous subcutaneous insulin infusion (CSII) and who works closely with a team including nurses, diabetes educators and dietitians who are knowledgeable in the use of CSII.

3. The patient:

a. has completed a comprehensive diabetes education program; and

b. has been on a program of multiple daily injections of insulin, (at least three injections per day), with frequent self-adjustments of insulin dose for at least six months prior to initiation of the insulin pump; and

c. has documented frequency of glucose self-testing an average of a least four times per day during the two months prior to initiation of the insulin pump; and

d. meets one or more of the following criteria while on the multiple daily injection regimen:

i. has a glycosylated hemoglobin level (HbA1c) greater than 7.0 percent;

ii. has a history of recurring hypoglycemia;

iii. has wide fluctuations in blood glucose before mealtime;

iv. has dawn phenomenon with fasting blood sugars frequently exceeding 200 mg/dl;

v. has a history of severe glycemic excursions.

B. Continuous subcutaneous insulin external infusion pumps shall be denied as not medically necessary and reasonable for all Type II diabetics including insulin-requiring Type II diabetics.

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:

#### **§1919. Reimbursement**

A. The Health Care Common Procedure Coding System shall be used to bill for diabetic equipment and supplies. These products shall meet approved Medicare guidelines and codes. Claims for continuous subcutaneous insulin external infusion pumps shall be reimbursed the lesser of 5 percent over the provider's actual cost or the provider's usual and customary charge, not to exceed \$5,745. Related diabetic supplies shall be reimbursed the lesser of 10 percent over the provider's actual cost or the provider's usual and customary charge.

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:

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, June 29, 2004 at 9:30 a.m in the Wade O. Martin Auditorium, State Archives Building, 3851 Essen Lane, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Frederick P. Cerise, M.D., M.P.H.  
Secretary

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Durable Medical Equipment Program C Continuous Subcutaneous Insulin External Infusion Pumps**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will increase state program costs by approximately \$180,064 for SFY 2004-2005, \$216,077 for SFY 2005-2006 and \$222,559 for FY 2006-2007. It is anticipated that \$340 (\$170 SGF and \$170 FED) will be expended in SFY 2003-2004 for the states 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 increase federal revenue collections by approximately \$444,940 for SFY 2004-2005, \$533,928 for SFY 2005-2006 and \$549,946 for SFY 2006-2007. \$170 is included in SFY 2003-2004 for the federal administrative expenses for promulgation of this proposed rule and the final rule.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

This proposed rule adopts criteria for the authorization of continuous subcutaneous insulin external infusion pumps. There are three providers of insulin pumps providing services to approximately 180 recipients per year. It is anticipated that implementation of this proposed rule will increase expenditures to providers of insulin pumps by \$625,004 for SFY 2004-2005, \$750,005 for SFY 2005-2006 and \$772,505 for SFY 2006-2007.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

It is anticipated that the implementation of this rule will not have an effect on competition and employment.

Ben A. Bearden  
Director  
0405#035

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

**Department of Health and Hospitals  
Office of the Secretary  
Bureau of Health Services Financing**

Early Periodic Screening, Diagnosis and  
Treatment Program KidMed Services  
(LAC 50:XV.6701)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing hereby proposes to adopt LAC 50:XV.6701 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing provides reimbursement for Early and Periodic Screening, Diagnosis and Treatment (EPSDT) KidMed services under the Medicaid Program. The administrative simplification provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) requires national standards for electronic health care transactions and national identifiers for providers, health plans, and employers (*Federal Register*, Volume 65, Number 160). In compliance with HIPAA requirements, the bureau promulgated an Emergency Rule requiring Medicaid providers performing EPSDT preventive screening services to submit specific information regarding KidMed services (*Louisiana Register*, Volume 29, Number 12). This proposed Rule is being promulgated to continue the provisions contained in the December 20, 2003 Rule.

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following procedures for Early and Periodic Screening, Diagnosis and Treatment (EPSDT) KidMed Services in order to conform to HIPAA requirements.

### **Title 50**

### **PUBLIC HEALTHC MEDICAL ASSISTANCE**

#### **Part XV. Services for Special Populations**

#### **Subpart 5. Early and Periodic Screening, Diagnosis, and Treatment**

#### **Chapter 67. KIDMED**

#### **§6701. General Provisions**

A. All providers of Early and Periodic Screening, Diagnosis and Treatment (EPSDT) preventive screening services shall be required to submit information to the Medicaid Program regarding recipient immunizations, referrals and health status.

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:

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, June 29, 2004 at 9:30 a.m. in the Wade O. Martin Auditorium, State Archives Building, 3851 Essen Lane, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Frederick P. Cerise, M.D., M.P.H.  
Secretary

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Early Periodic Screening, Diagnosis and Treatment Program KidMed Services**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS(Summary)**

It is anticipated that there will be no programmatic costs to the state as a result of implementation of this proposed rule. It is anticipated that \$204 (\$102 SGF and \$102 FED) will be expended in SFY 2003-2004 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 implementation of this proposed rule will have no programmatic effect on federal revenue collections. \$102 will be collected in FY 2003-2004 as the federal share of 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)**

Implementation of this proposed rule, which continues the provisions contained in the December 20, 2003 emergency rule, adopts provider reporting requirements for Early and Periodic Screening, Diagnosis and Treatment (EPSDT) KidMed Services (approximately 700 providers) in order to conform to provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) requirements. Implementation of this proposed rule will have no costs and/or economic benefits to directly affected persons or non-governmental groups.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

It is anticipated that the implementation of this rule will not have an effect on competition and employment.

Ben A. Bearden  
Director  
0405#033

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Experimental or Investigational  
Medical Procedures or Devices  
(LAC 50:I.303)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 50:I.303 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule on September 20, 1996 governing the coverage of experimental or investigational medical procedures. Coverage was provided only for non-experimental or non-investigational procedures as identified by the American Medical Association, the Federal Drug Administration or recognized experts in the practice of medicine who could lend guidance or judgment regarding the development of new procedures (*Louisiana Register*, Volume 22, Number 9). The bureau promulgated an Emergency Rule to amend the September 20, 1996 Rule to revise the criteria governing the coverage of experimental or investigational medical procedures and devices (*Louisiana Register*, Volume 30, Number 3). The bureau now promulgates the following proposed Rule to continue the provisions of the March 2, 2004 Emergency Rule.

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the September 20, 1996 Rule governing the coverage of experimental or investigational medical procedures and devices.

#### Title 50

### PUBLIC HEALTHC MEDICAL ASSISTANCE

#### Part I. Administration

#### Subpart 1. General Provisions

#### Chapter 3. Experimental Procedures

#### §303. Coverage

A. Louisiana Medicaid does not cover any Federal Drug Administration (FDA) designated experimental or investigational medical procedures or devices until those procedures or devices have received final FDA approval or when a procedure or device is specifically approved for coverage by the Medicaid director.

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:

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, June 29, 2004 at 9:30 a.m. in the Wade O. Martin Auditorium, State Archives Building, 3851 Essen Lane, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Frederick P. Cerise, M.D., M.P.H.  
Secretary

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: Experimental or Investigational Medical Procedures or Devices

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that there will be no programmatic costs to the state as a result of implementation of this proposed rule. It is anticipated that \$204 (\$102 SGF and \$102 FED) will be expended in SFY 2003-2004 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 implementation of this proposed rule will have no programmatic effect on federal revenue collections. It is anticipated that \$102 will be collected in SFY 2003-04 for the federal 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)

Implementation of this proposed rule, which continues the provisions of the March 2, 2004 emergency rule, revises and clarifies the criteria governing the coverage of experimental or investigational medical procedures and devices. Louisiana Medicaid does not cover any Federal Drug Administration (FDA) designated experimental or investigational medical procedures or devices until those procedures or devices have received final FDA approval or when a procedure or device is specifically approved for coverage by the Medicaid Director. Implementation of this proposed rule will have no costs and/or economic benefits to directly affected persons or nongovernmental groups.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this rule will not have an effect on competition and employment.

Ben A. Bearden  
Director  
0405#032

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office



## NOTICE OF INTENT

### Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Intermediate Care Facilities for the  
Mentally Retarded Standards for Payment  
(LAC 50:II.10333, 10349, and 10365)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to amend LAC 50:II.10333 and 10349, and adopt §10365 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, Bureau of Health Services Financing promulgated a Rule to repeal the previous regulations governing the standards for payment for Intermediate Care Facilities for the Mentally Retarded (ICF-MR) and adopted new provisions governing ICF-MR services (*Louisiana Register*, Volume 25, Number 4). The bureau now proposes to amend the provisions contained in the April 20, 1999 Rule governing involuntary transfer and discharge of ICF-MR residents, to amend the requirements for certification to include the Inventory for Client and Agency Planning (ICAP) Service Score and Level of Needs and Services (LONS) Summary Sheet and to adopt disaster preparedness procedures.

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

#### Title 50

#### PUBLIC HEALTH MEDICAL ASSISTANCE

##### Part II. Medical Assistance

##### Subpart 3. Standards for Payment

#### Chapter 103. Standards for Payment for Intermediate Care Facilities for the Mentally Retarded

##### Subchapter D. Transfers and Discharges

#### §10333. Involuntary Transfer or Discharge

A. Conditions. Involuntary transfer or discharge of a client may occur only under the following conditions:

1. the transfer or discharge is necessary for the client's welfare and the client's needs cannot be met in the facility;
2. the transfer or discharge is appropriate because the client's health has improved sufficiently, therefore, the client no longer needs the services provided by the facility;
3. the safety of individuals in the facility is endangered;
4. the health of individuals in the facility would otherwise be endangered;
5. the client has failed, after reasonable and appropriate notice, to pay for the portion of the bill for services for which he/she is liable or when the client loses financial eligibility for Medicaid. When a client becomes eligible for Medicaid after admission to a facility, the facility may charge the client only allowable charges under Medicaid; and
6. the facility ceases to operate.

B. When the facility proposes to transfer or discharge a client under any of the circumstances specified in Paragraphs A.1-5 above, the client's clinical records must be fully documented. The documentation must be made by the following:

1. the client's physician when transfer or discharge is necessary as specified in Paragraph A.1 or 2 as listed above; or

2. any physician when transfer or discharge is necessary as specified in Paragraph A.4 as listed above. Before an interfacility transfer or discharge occurs the facility must:

a. notify the client of the transfer or discharge and the reason for the move. The notification shall be in writing and in a language and manner that the client understands. A copy of the notice must be placed in the client's clinical record and a copy transmitted to:

- i. the client;
- ii. a family member of the client, if known;
- iii. the client's legal representative and legal guardian, if known;
- iv. the Community Living Ombudsman Program;
- v. DHH, Health Standards Section;
- vi. the regional office of OCDD for assistance with the placement decision;
- vii. the client's physician;
- viii. appropriate educational authorities; and
- ix. a representative of the client's choice;

b. record the reasons in the client's clinical record;

c. a interdisciplinary team conference shall be conducted with the client, family member or legal representative and an appropriate agency representative to update the plan and develop discharge options that will provide reasonable assurances that the client will be transferred or discharged to a setting that can be expected to meet his/her needs.

3. the facility must issue the notice of transfer or discharge in writing at least 30 days before the resident is transferred or discharged, except under the circumstances described in Subparagraph a below.

a. Notice may be made as soon as practicable before transfer or discharge when:

- i. the safety of individuals in the facility would be endangered;
- ii. the health of individuals in the facility would be endangered;
- iii. the client's health improves sufficiently to allow a more immediate transfer or discharge; or
- iv. an immediate transfer or discharge is required by the client's urgent medical needs as determined by a physician.

b. Notice may be made at least 15 days before transfer or discharge in cases of nonpayment of a bill for cost of care.

c. The written notice must include:

- i. the reason for transfer or discharge;
- ii. the effective date of transfer or discharge;
- iii. the location to which the client is transferred or discharged;
- iv. an explanation of the client's right to have personal and/or third party representation at all stages of the transfer or discharge process;

v. the address and telephone number of the Community Living Ombudsman Program;

vi. the mailing address and telephone number of the agency responsible for the protection of individuals with developmental disabilities;

vii. names of facility personnel available to assist the client and family in decision making and transfer arrangements;

viii. the date, time and place for the follow-up interdisciplinary team conference to make a final decision on the client's/legal representative's choice of new facility of alternative living arrangement;

ix. an explanation of the client's right to register a complaint with DHH within three days after the follow-up interdisciplinary team conference;

x. a statement regarding appeal rights that reads: "You or someone acting on your behalf has the right to appeal the health facility's decision to discharge you. The written request for a hearing must be postmarked within 30 days after you receive this notice or prior to the effective date of the transfer or discharge. If you request a hearing, it will be held within 30 days after the facility notifies the Bureau of Appeals of the witnesses who shall testify at the discharge hearing as well as the documents that will be submitted as evidence. You will not be transferred/discharged from the facility until a decision on the appeal has been rendered;" and

xi. the name of the director, and the address, telephone number, and hours of operation of the Bureau of Appeals of the Louisiana Department of Health and Hospitals;

C. The facility shall provide all services required prior to discharge that are contained in the final update of the Individual Habilitation Plan and in the transfer or discharge plan.

D. The facility shall be responsible for keeping the client, whenever medical or other conditions warrant such action, for as long as necessary even if beyond the proposed date of transfer or discharge, except in emergency situations.

E. The facility shall provide transportation to the new residence unless other arrangements are preferred by the client/legal representative or the receiving facility.

F. Appeal of Transfer or Discharge. If the client appeals the transfer or discharge, the ICF/MR facility must permit the client to remain in the facility and must not transfer or discharge the client from the facility until the final appeal decision has been reached or a pre-hearing conference is held at the request of the facility. Failure to comply with these requirements will result in termination of the facility's provider agreement.

G. If nonpayment is the basis of a transfer or discharge, the client shall have the right to pay the balance owed to the facility up to the date of the transfer or discharge and then is entitled to remain in the facility.

H. If an ICF/MR client requests a hearing, the Louisiana Department of Health and Hospitals shall hold a hearing at the ICF/MR facility, or by telephone if agreed upon by the appellant, within 30 days from the date the appeal is filed with the Bureau of Appeals and witness and exhibit lists are submitted by the facility. The Louisiana Department of Health and Hospitals shall issue a decision within 30 days from the date of the client hearing. The ICF/MR facility must convince the department by a preponderance of the evidence that the transfer or discharge is justified. If the department determines that the transfer is appropriate and no

appeal and/or pre-hearing conference has been lodged with the Bureau of Appeals, the client must not be required to leave the ICF/MR facility within 30 days after the client's receipt of the initial transfer or discharge notice unless an emergency exists.

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 Human Resources LR 13:578 (October 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:690 (April 1999), LR 30:

#### **Subchapter G. Admission Review**

##### **§10349. Requirements for Certification**

A.-A.11.e. ...

12. Inventory for Client and Agency Planning (ICAP) service score;

13. Level of Needs and Services (LONS) summary sheet.

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 Human Resources LR 13:578 (October 1987) and amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:698 (April 1999), LR 30:

#### **Subchapter H. Emergency Awareness**

##### **§10365. Disaster Preparedness**

A. Written Plans. ICFs/MR shall have written procedures complete with instructions to be followed in the event of an internal or external disaster such as fire or other emergency actions, including:

1. specifications of evacuation routes and procedures;
2. instructions for the care of injuries and/or casualties (client and personnel) arising from such disaster;
3. procedures for the prompt transfer of records;
4. instructions regarding methods of containing fire; and
5. procedures for notification of appropriate persons.

B. Employee Training. All ICF/MR employees shall be trained in disaster preparedness as part of employment orientation. The disaster preparedness training shall include orientation, ongoing training, and drills for all personnel. The purpose shall be that each employee promptly and correctly carry out his/her specific role in the event of a disaster. The facility shall periodically rehearse these procedures for disaster preparedness. The minimum requirements shall be drills once each quarter for each shift.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

Interested persons may submit written comments to Ben A. Bearden at the Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, June 29, 2004 at 9:30 am in the Wade O. Martin, Jr. Auditorium, State Archives Building, 3851 Essen Lane, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all

written comments is 4:30 p.m. on the next business day following the public hearing.

Frederick P. Cerise, M.D., M.P.H.  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Intermediate Care Facilities for the  
Mentally Retarded Standards for Payment**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that there will be no programmatic costs to the state as a result of implementation of this proposed rule. It is anticipated that \$816 (\$408 SGF and \$408 FED) will be expended in SFY 2003-2004 for the states 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 implementation of this proposed rule will have no programmatic effect on federal revenue collections. \$408 will be collected in FY 2003-2004 as the federal share of 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)**

Implementation of this proposed rule amends the rules for involuntary transfer and discharge procedures for ICF/MRs, to amend reimbursement procedures (for approximately 485 facilities) to include the Inventory for Client and Agency Planning (ICAP) Service Score and Level of Needs and Services (LONS) Summary Sheet and to adopt disaster preparedness procedures. Implementation of this proposed rule will have no costs and/or economic benefits to directly affected persons or non-governmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)**

It is anticipated that the implementation of this rule will not have an effect on competition and employment.

Ben A. Bearden  
Director  
0405#031

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Office of the Secretary  
Bureau of Health Services Financing**

Medicaid Eligibility Incurred Medical  
Deductions Medically Needy  
(LAC 50:III.939)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt LAC 50:III.939 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 the 2003-2004 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid Program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize

various cost containment measures to accomplish these reductions, including but not limited to, pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law." This Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule promulgating the Medicaid Eligibility Manual in its entirety by reference in May of 1996 (*Louisiana Register*, Volume 22, Number 5). The department provides Medicaid coverage under the Medically Needy Program that is optional under Title XIX of the Social Security Act Section 1902(a)(10) and 42 CFR Subpart D Section 435.300. The Medically Needy Program includes those individuals or families who meet all AFDC or SSI related categorical requirements and whose income is within the Medically Needy Income Eligibility Standard. It also includes those individuals or families whose resources fall within the categorical limits, but whose income is above the Medically Needy Income Eligibility Standard. These individuals or families having income in excess of the Medically Needy Income Eligibility Standard can reduce excess income by incurring medical and/or remedial care expenses. This method used for determining eligibility is referred to as spend-down. A state may choose to exclude from incurred expenses those bills for services furnished more than three months before the Medicaid application is filed for initial eligibility. A state is required to deduct any current payment on such excluded expenses.

In compliance with Executive Order MJF 02-29, the bureau amended the policy governing the consideration of incurred expenses in the eligibility determination process for the Medically Needy Program (*Louisiana Register*, Volume 29, Number 1). The bureau amended the January 1, 2003 Emergency Rule by an Emergency Rule to clarify the policy governing the consideration of incurred expenses in the eligibility determination process for the medically needy eligibility group (*Louisiana Register*, Volume 30, Number 4). This proposed Rule is being promulgated to continue the provisions of the April 20, 2004 Emergency Rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule may have a negative impact for those individuals or families who may no longer qualify for Medicaid coverage as a result of the implementation of this proposed Rule.

**Title 50**

**PUBLIC HEALTHC MEDICAL ASSISTANCE**

**Part III. Eligibility**

**Chapter 9. Financial Eligibility**

**Subchapter D. Incurred Medical**

**§939. Medically Needy**

A. The following criteria apply to all incurred medical expenses for medically needy.

1. Bills for necessary medical and remedial services furnished more than three months before the Medicaid application is filed will be excluded as an incurred expense. Current payments on excluded expenses will be allowed as an incurred expense.

2. The first budget period for the medically needy will begin the first month in the three-month period prior to the date of application in which the applicant received covered services.

AUTHORITY NOTE: Promulgated in accordance with RS. 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:

Implementation of this proposed Rule shall be 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 Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, June 29, 2003 at 9:30 a.m. in the Wade O. Martin Auditorium, State Archives Building, 3851 Essen Lane, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Frederick P. Cerise, M.D., M.P.H.  
Secretary

#### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

##### RULE TITLE: Medicaid Eligibility Incurred Medical Deductions C Medically Needy

#### 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 a reduction of expenditures of \$169,508 for SFY 2003-2004, \$1,033,228 for SFY 2004-2005 and \$1,064,224 for SFY 2005-2006. It is anticipated that \$272 (\$136 SGF and \$136 FED) will be expended in SFY 2003-2004 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 result in a reduction of federal revenue collections of \$497,583 for SFY 2003-2004, \$2,553,123 for SFY 2004-2005 and \$2,629,717 for SFY 2005-2006. It is anticipated that \$136 will be expended in SFY 2003-2004 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 proposed rule, which continues the provisions of the April 20, 2004 emergency rule, will amend the policy governing the consideration of incurred expenses in the eligibility determination process for the Medically Needy Program. It is anticipated that implementation of this proposed rule will reduce the number of eligible Medically Needy spend-down recipients by approximately 1,680 per year. It is anticipated that implementation of this proposed rule will reduce expenditures in the Medically Needy Program by \$667,363 for SFY 2003-2004, \$3,586,351 for SFY 2004-2005 and \$3,693,941 for SFY 2005-2006.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the proposed rule will have no effect on competition or employment

Ben A. Bearden  
Director  
0405#034

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

#### NOTICE OF INTENT

##### Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Personal Care Services C Long Term  
(LAC 50:XV.12901-12913)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to amend LAC 50:XV.12901, 12903, 12905, 12907, 12909, 12913, and adopt 12911 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing adopted a Rule to establish the provisions governing coverage of personal care services as an optional service under the Medicaid State Plan (*Louisiana Register*, Volume 29, Number 6). The bureau amended the June 20, 2003 Rule to clarify covered services, revise the recipient qualifications and define the term *legally responsible relative* (*Louisiana Register*, Volume 29, Number 10). The bureau by Emergency Rule amended the June 20, 2003 Rule and the October 1, 2003 Emergency Rule to establish provisions governing when a recipient may change personal care service providers and staffing requirements for personal care agencies. In addition, the bureau amended the general provisions, standards for participation and the place of service requirements contained in the June 20, 2003 Rule (*Louisiana Register*, Volume 30, Number 4). This proposed Rule is being promulgated to continue the provisions of the April 20, 2004 Emergency Rule.

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 implementation of this proposed Rule will have a positive impact on family functioning, stability, and autonomy as described in R.S. 49:972, as it will enhance the quality of services by ensuring that employees of personal care services agencies are qualified to provide services.

#### Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the June 20, 2003 Rule and October 1, 2003 Emergency Rule governing personal care services to establish provisions governing when a recipient may change personal care service providers and staffing requirements for personal care agencies. In addition, the bureau amends the general provisions, standards for participation and the place of service requirements contained in the June 20, 2003 Rule.

## Title 50

### PUBLIC HEALTHC MEDICAL ASSISTANCE

#### Part XV. Services for Special Populations

##### Subpart 9. Personal Care Services

#### Chapter 129. Long Term

##### §12901. General Provisions

A. ...

B. An assessment shall be performed for every recipient who requests personal care services. This assessment shall be utilized to identify the recipient's long term care needs, preferences, the availability of family and community supports and to develop the plan of care. The Minimum Data Set-Home Care (MDS-HC) System will be used as the basic assessment tool. However, other assessment tools may be utilized as a supplement to the MDS-HC to address the needs of special groups within the target population.

C. Authorization. Personal care services (PCS) shall be authorized by the Bureau of Health Services Financing or its designee. The bureau or its designee will review the completed assessment, supporting documentation from the recipient's primary physician, plan of care and any other pertinent documents to determine whether the recipient meets the medically necessity criteria for personal care services.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:911 (June 2003), amended LR 30:

##### §12903. Covered Services

A. Personal care services are defined as those services that provide assistance with the distinct tasks associated with the performance of the activities of daily living (ADL) and the instrumental activities of daily living (IADL). Assistance may be either the actual performance of the personal care task for the individual or supervision and prompting so the individual performs the task by him/herself. ADLs are those personal, functional activities required by an individual for continued well-being, health and safety. ADLs include tasks such as:

1. eating;
2. bathing;
3. dressing;
4. grooming;
5. transferring (getting in/out of the tub, from a bed to a chair);
6. ambulation; and
7. toileting.

B. IADLs are those activities that are considered essential for sustaining the individual's health and safety, but may not require performance on a daily basis. IADLs include tasks such as:

1. light housekeeping;
2. food preparation and storage;
3. grocery shopping;
4. laundry;
5. assisting with scheduling medical appointments when necessary;
6. accompanying the recipient to medical appointments when necessary due to the recipient's frail condition;
7. assisting the recipient to access transportation; and

8. reminding the recipient to take medication.

C. ...

D. Constant or intermittent supervision and/or sitter services are not a component of personal care services.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:912 (June 2003), amended LR 30:

##### §12905. Recipient Qualifications

A. Personal care services shall be available to recipients who are 65 years of age or older, or 21 years of age or older and disabled. *Disabled* is defined as meeting the disability criteria established by the Social Security Administration.

B. Personal care services for elderly or disabled recipients must meet medical necessity criteria as determined by the Bureau of Health Services Financing and must be prior authorized by bureau or its designee. Personal care services are medically necessary if the recipient:

1. meets the medical standards for admission to a nursing facility, including all Preadmission Screening and Annual Resident Review (PASARR) requirements; and

2. is able, either independently or through a responsible representative, to participate in his/her care and direct the services provided by the personal care services worker. A responsible representative is defined as the person designated by the recipient to act on his/her behalf in the process of accessing and/or maintaining personal care services; and

3. faces a substantial possibility of deterioration in mental or physical condition or functioning if either home and community-based services or nursing facility services are not provided in less than 120 days. This criterion is considered met if:

a. the recipient is in a nursing facility and could be discharged if community-based services were available;

b. is likely to require nursing facility admission within the next 120 days; or

c. has a primary caregiver who has a disability or is over the age of 70.

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:

##### §12907. Recipient Rights

A. - A.9. ....

B. Changing Providers. Recipients may request to change PCS providers without cause once after each three month service authorization period. Recipients may request to change PCS providers with good cause at any time during the service authorization period. Good cause is defined as the failure of the provider to furnish services in compliance with the service plan. Good cause shall be determined by the bureau 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:

##### §12909. Standards for Participation

A. - B.2. ...

3. ensure that a criminal background check is performed for all direct care and supervisory staff and that

the results are maintained in each employee's personnel record:

a. the criminal background check must be performed by the Office of the State Police or an agency authorized by the Office of the State Police;

i. the agency may make an offer of temporary employment to an individual pending the results of the criminal background check. In such instances, the worker shall perform his/her duties under the direct supervision of a permanent employee or in the presence of a member of the recipient's immediate family or of a care giver designated by the immediate family;

4. ensure that the direct care staff is qualified to provide personal care services. Assure that all new staff satisfactorily completes an orientation and training program in the first 30 days of employment;

B.5. - 10. ...

11. have proof of general liability insurance of at least \$200,000. The certificate holder shall be the Department of Health and Hospitals; and

12. maintain an office in each region in which it proposes to provide services. Consideration shall be given to an agency's request to provide services in one parish that is adjacent to its designated service region if the agency's office is within a 50-mile radius of that parish's borderline:

a. each office must have hours of operation that conform to the customary operating hours for similar businesses in the local community and have written provisions for emergency contact that include a toll-free telephone line with 24-hour accessibility. The written policy governing emergency contact shall be made available to recipients and staff;

b. each office must house the case records and billing documentation for the individuals served by that office;

c. each office must also house the personnel and payroll records for all of the employees who are assigned to that office.

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:

### **§12911. Staffing Requirements**

A. Personal care services agencies participating in the Medicaid Program must ensure that all staff providing direct care to the recipient meets the qualifications for furnishing personal care services. The PCS worker shall demonstrate empathy toward the elderly and persons with disabilities, an ability to provide care to these recipients, and the maturity and ability to deal effectively with the demands of the job. In addition, all supervisors of direct care staff must meet the qualifications set forth in this §12911.

B. Personal Care Services Worker Qualifications

1. Age. The worker must be at least 18 years old or older at the time the offer of employment is made. Verification of age must be maintained in each employee's personnel record.

2. Education and Experience. All PCS workers must meet one of the following minimum education and experience qualifications:

a. a high school diploma or general equivalency diploma (GED); or

b. a trade school diploma in the area of human services; or

c. documented, verifiable experience providing direct care services to the elderly and/or persons with disabilities.

3. The PCS worker must have the ability to read and write in English as well as to carry out directions promptly and accurately.

C. Restrictions. A legally responsible relative is prohibited from being the paid PCS worker for a family member. Legally responsible relative is defined as the parent of a minor child, foster parent, curator, tutor, legal guardian or the recipient's spouse.

D. Supervisor Qualifications

1. Education and Experience. PCS supervisory staff must meet one of the following minimum education and experience qualifications. A PCS supervisor must:

a. have a bachelor's degree from an accredited college or university in one of the following human service-related fields:

- i. social work;
- ii. psychology;
- iii. sociology;
- iv. physical therapy;
- v. occupational therapy;
- vi. recreational therapy; or
- vii. counseling; and

b. have two years of paid experience in a human service-related field providing direct services to the elderly and/or persons with disabilities; or

Note: Thirty hours of graduate level course credit in any of the referenced human service-related fields may be substituted for the one year of required paid experience.

c. be a licensed registered nurse (RN) or a licensed practical nurse (LPN) with one year of paid experience as a RN or LPN providing direct services to the elderly and/or persons with disabilities; or

d. have a high school diploma or GED and five years of paid experience providing direct care services to the elderly and/or persons with disabilities.

E. Supervisory Responsibilities

1. The supervisor shall be responsible for assessing PCS workers' job performance, reviewing client cases, providing constructive feedback, and assisting staff to resolve problems and to provide services in a more effective manner using the following methods:

a. routine (at least quarterly) face-to-face meetings with each PCS worker; and

b. periodic (at least quarterly) unannounced visits to the recipient's residence to monitor service delivery and compliance with the plan of care and service plan.

2. Each supervisor shall be responsible for the supervision of no more than 15 PCS workers.

F. Training. Training for PCS workers and supervisors must be provided or arranged for by the personal care services agency at its own expense.

1. A minimum of eight hours of orientation must be provided to new direct care and supervisory employees within one week of employment. The orientation provided to staff shall include, but is not limited to:

- a. agency policies and procedures;
- b. staff duties and responsibilities;
- c. ethics and confidentiality;

- d. record keeping;
- e. a description of the population served by the agency; and
- f. a discussion of issues related to providing care for these individuals, including physical and emotional problems associated with aging and disability.

2. New direct care staff must also receive training in cardiopulmonary resuscitation (CPR) and basic first aid within one week of employment. A current, valid certification for CPR and first aid may be accepted as verification of training.

3. A minimum of 16 hours of training must be furnished to new employees within 30 days of employment. The PCS agency training curriculum must, at a minimum, include the following components:

- a. communication skills;
- b. observation, reporting and documentation of the recipient status and the care or service furnished;
- c. basic infection control procedures;
- d. basic elements of body functioning and changes in body function that must be reported to a worker's supervisor;
- e. safe transfer techniques and ambulation;
- f. appropriate and safe techniques in personal hygiene and grooming that include:
  - i. bed bath;
  - ii. sponge, tub, or shower bath;
  - iii. sink, tub, bed shampoo;
  - iv. nail and skin care;
  - v. oral hygiene; and
  - vi. toileting and elimination;
- g. recognizing emergencies and knowledge of emergency procedures;
- h. maintenance of a clean, safe and healthy environment; and
- i. treating the recipient with dignity and respect, including the need to respect his/her privacy and property.

4. PCS workers and supervisors must satisfactorily complete a minimum of 20 hours of annual training related to the provision of personal care services. This training may include updates on the subjects covered in orientation and initial training. The eight hours of orientation required for new employees are not included as part of the hours required for the annual training.

5. Documentation. All required training must be documented in the employee's personnel record, including the date, time spent in the training session, subjects covered and the name of the individual who conducted the training. Verification of training shall be furnished to the bureau or its designee upon request.

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

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

**§12913. Place of Service**

A. Personal care services may be provided in the recipient's home or in another location outside of the recipient's home if the provision of these services allows the recipient to participate in normal life activities pertaining to the IADLs cited in the plan of care. The recipient's home is defined as the place where he/she resides such as a house, an

apartment, a boarding house, or the house or apartment of a family member or unpaid primary care-giver. The following institutional settings are not considered to be a recipient's home:

- 1. a hospital;
- 2. an institution for mental disease;
- 3. a nursing facility; or
- 4. an intermediate care facility for the mentally retarded.

B. - D. ...

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

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:913 (June 2003), amended LR 30:

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, June 29, 2004 at 9:30 a.m. in the Wade O. Martin Auditorium, State Archives Building, 3851 Essen Lane, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Frederick P. Cerise, M.D., M.P.H.  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Personal Care ServicesC Long Term**

**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 for SFY 2004-2005, 2005-2006 and 2006-2007. It is anticipated that \$1,020 (\$510 SGF and \$510 FED) will be expended in SFY 2003-2004 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 for SFY 2004-2005, 2005-2006 and 2006-2007. It is anticipated that \$510 will be expended in SFY 2003-2004 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)**

It is anticipated that personal care services providers (approximately 230) will incur costs for the hiring and training of direct care and supervisory staff. However, the estimable costs to providers cannot be determined at this time. Implementation of this proposed rule amends the June 20, 2003 rule and the October 1, 2003 emergency rule to establish provisions governing when a recipient may change personal care service providers and staffing requirements for personal care agencies. The proposed rule also amends the general provisions, standards for participation and the place of service requirements contained in the June 20, 2003 rule and continues the provisions contained in the April 20, 2004 emergency rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition. It is anticipated that this proposed rule could provide employment opportunities to individuals employed by providers of personal care services.

Ben A. Bearden  
Director  
0405#030

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Transportation and Development  
Office of Weights and Standards**

**Critical Off-Road Equipment Permit Requirements  
(LAC 73:I.1709)**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., notice is hereby given that the Department of Transportation and Development intends to amend a Rule entitled "Critical Off-Road Equipment Permit Requirements," in accordance with R.S. 32:386-389.

**Title 73**

**WEIGHTS, MEASURES AND STANDARDS**

**Part I. Weights and Standards**

**Chapter 17. Requirements for Permitting Off-Road Equipment**

**§1709. Critical Off-Road Equipment Permit Requirements**

A. ...

B. The owner shall provide escort service during the move in accordance with the department's escort procedures and regulations to control traffic with the following exception.

1. Equipment classified as critical off-road equipment in which no single axle is in excess of 30,000 pounds, no tandem axles are in excess of 60,000 pounds and no tridum axles are in excess of 66,000 pounds shall be exempt from the escort requirement.

C. Warning Lights

1. Vehicles which exceed 54,000 pounds on a tandem axle and 60,000 pounds on a tridum axle will be required to have warning lights on the off-road equipment.

2. The vehicle shall display an approved 360 degree emergency warning lamp. The lamp is approved if it appears on a list of certified safety devices furnished to the Department of Transportation and Development by the Department of Public Safety and Corrections. This list includes bar, strobe, revolving and stationary lamps.

D. Bridge Crossing Requirements on Highways Other than Interstate

1. Bridge roadway shall be cleared of traffic on two-lane two-way traffic bridges. The vehicle shall straddle the centerline of the cleared bridge roadway. This requirement is waived for bridges of this type over 300 feet in length.

2. The vehicle shall straddle the outside and adjacent lane of a roadway with two or more traffic lanes in the same direction. Traffic shall be kept out of the adjacent lane within 100 feet of the equipment. This requirement is waived for bridges of this type over 1,000 feet in length.

3. A speed of 5 mph shall be maintained without braking, accelerating, or changing gears with no exceptions.

E. Bridge Crossing Requirements on Interstate Highways

1. Commercial vehicles shall be prevented from traveling adjacent to and within 100 feet of the equipment. This requirement is waived for bridges over 1,000 feet in length.

2. The vehicle shall occupy the outside traffic lane.

3. A speed not in excess of 45 mph shall be maintained on bridge structures.

F. Booster axles, when permitted, shall be activated during the entire move on the state-maintained highway system.

G. A letter of approval must be issued by the DOTD permits administrator.

H. A copy of this letter is to be placed in this equipment to insure that the above conditions are adhered to on each move.

I. This letter of approval does not grant any authority for this equipment to cross any posted bridge(s) or for the use of any highway or road not on the state maintained highway system.

J. Counterweights are to be removed for cranes with tandem axles exceeding 48,000 pounds, or for these with tridum axles exceeding 60,000 pounds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32.2, et seq. and R. S. 32:386-389.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:26 (February 1979), amended by Office of Weights and Standards, LR 22:120 (February 1996), LR 28:1601 (July, 2002), LR 30:

**Family Impact Statement**

The proposed adoption of this Rule should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically:

1. the implementation of this proposed Rule will have no known or foreseeable effect on the stability of the family;

2. the implementation of this proposed Rule will have no known or foreseeable effect on the authority and rights of parents regarding the education and supervision of their children;

3. the implementation of this proposed Rule will have no known or foreseeable effect on the functioning of the family;

4. the implementation of this proposed Rule will have no known or foreseeable effect on family earnings and family budget;

5. the implementation of this proposed Rule will have no known or foreseeable effect on the behavior and personal responsibility of children;

6. the implementation of this proposed Rule will have no known or foreseeable effect on the ability of the family or a local government to perform this function.

All interested persons so desiring shall submit oral or written data, views, comments, or arguments no later than 30 days from the date of publication of this Notice of Intent to Sherryl J. Tucker, Senior Attorney, Department of Transportation and Development, P.O. Box 94245, Baton Rouge, LA 70804-9245, Telephone (225) 237-1359.

Johnny B. Bradberry  
Secretary



**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Critical Off-Road Equipment Permit  
Requirements**

**Title 76**

**WILDLIFE AND FISHERIES**

**Part V. Wild Quadrupeds and Wild Birds**

**Chapter 1. Wild Quadrupeds**

**§127. Nuisance Wildlife Control Operator Program**

**A. Purpose**

1. The purpose of this Section is to establish guidelines for the permitting of Nuisance Wildlife Control Operators (NWCO's) and the procedures to be used by the NWCO's in controlling nuisance wildlife.

2. NWCO's are defined as individuals who offer their services for commercial control of nuisance wild mammals.

**B. Permit Requirements**

1. The applicant must achieve a minimum score of 70 percent on the NWCO examination. The examination shall consist of 75 questions relating to wildlife biology and behavior, nuisance animal control methods and procedures and nuisance wildlife control laws, rules and regulations.

2. Anyone who has been convicted of a Class II or greater wildlife violation in Louisiana, or the equivalent in another state within the past three years, or has been convicted of a felony in Louisiana or another state, shall not be eligible for a NWCO permit. Also, any person whose hunting or trapping license privileges are revoked and is not legally able to purchase a trapping or hunting license shall not be allowed to possess or operate under the authority of a NWCO permit.

3. The NWCO permit is not valid unless it is accompanied by a valid Louisiana trapping license and a valid Louisiana basic hunting license, all three of which must be carried at all times while conducting NWCO activities.

**C. Exemptions**

1. Employees of the Louisiana Department of Wildlife and Fisheries ("the department") the Louisiana Department of Agriculture and Forestry, the Louisiana Department of Transportation and Development and the USDA/APHIS/Wildlife Services are exempt from all NWCO permit requirements while they are on duty. Also, city, parish or local municipal government employees assigned to animal control duties are exempt from permit requirements while on duty.

**D. Reporting Requirements**

1. Nuisance Wildlife Complaint Forms must be kept by NWCO's for a period of three years. Report forms shall detail:

- a. date the nuisance wildlife complaint was received;
- b. parish in which complaint originated;
- c. species of offending wildlife;
- d. action taken and disposition of offending wildlife.

2. Report forms shall be available for inspection at all times by wildlife enforcement agents or any other authorized representatives of the department.

3. A summary of all nuisance wildlife control activity is to be submitted annually. The report shall include all control activity carried out during the effective dates of the permit and must include the following information:

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There will be no implementation costs to the Department. The permits which are the subject of this rule have been issued for some time. This rule simply enlarges the category of certain loads classified as "critical off-road" equipment which may travel without the services of an escort. It also requires the affected loads to utilize warning lights in lieu of the escort.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The Department anticipates no effect on revenue collections of state or local governmental units as a result of this rule change.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

This rule change should benefit the industry which moves certain critical off-road equipment because they will no longer be required to utilize an escort when they move on Louisiana highways. They will be required to purchase lights for the affected vehicles. The lights should be one-time cost of approximately \$120.00 per vehicle. The department estimates that approximately 300 vehicles will be affected. This cost should not be as substantial as the savings realized by non-use of the escort.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The implementation of this rule change should have a favorable effect on competition and employment because the operators of the applicable permit loads will realize a savings on each job.

Johnny B. Bradberry  
Secretary  
0405#037

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

Nuisance Wildlife Control  
(LAC 76:V.127)

The Wildlife and Fisheries Commission does hereby give notice of its intent to promulgate a Rule (LAC 76:V.127) to regulate the conduct of persons issued a Nuisance Wildlife Control Operator's Permit. Authority for adoption of this Rule is included in the Louisiana Constitution, Article IX, Section 7, R.S. 56:1, R.S. 56:5, R.S. 56:6 (10), and (15), and R.S. 56:112, et seq.

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and final Rule, including but not limited to, the filing of the fiscal and economic impact statements, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

- a. NWCO name, permit number, address and telephone number;
  - b. the parish of activity and species of offending animal;
  - c. total number of animals taken, listed by species.
4. Reports may be submitted as much as one month prior to the expiration date of the permit but no later than 10 days after the expiration date of the permit.

5. Any NWCO who does not submit his/her report by the tenth day after the expiration date of the permit, or who submits a false report shall be issued a citation for violation of Louisiana Wildlife and Fisheries Commission rules and regulations and, if convicted, will be considered to have forfeited said permit.

**E. Procedures and Guidelines**

1. The NWCO permit authorizes the holder to capture, euthanize or relocate designated species of wildlife by safe and effective means at any time of the year and without limits provided the operator is acting on a valid, documented wildlife complaint.

2. The following procedures and guidelines for NWCO permittees shall be in effect to establish what species of wildlife may be taken under the authority of this permit, the legal methods that may be used to control nuisance wildlife under the authority of this permit, and the legal methods of disposing of nuisance wildlife.

a. Only wildlife damage or nuisance complaints affecting humans and/or their property are considered valid complaints. Complaints involving conflicts between two or more species of wildlife are not valid nuisance wildlife complaints.

b. NWCO permittees are only authorized to live trap and relocate, live trap and euthanize or lethally trap the following species when such action is warranted by a valid nuisance wildlife complaint: armadillo, beaver, bobcat, coyote, feral hogs, fox, mink, mole, muskrat, nutria, opossum, otter, rabbit, raccoon, squirrel (including flying squirrel) and skunk. Nuisance birds, reptiles and amphibians may be controlled as provided by existing law. Bats may be controlled by exclusion or by capture and relocation only. Bats shall not be controlled by any lethal methods.

c. The NWCO permit does not authorize the capture and/or handling of white-tailed deer, bears, turkeys or alligators.

d. The sale, trade, barter, gifting or retention of any wildlife or part thereof taken under the authority of a NWCO permit is prohibited except that furbearers taken during the open trapping season may be sold as provided by law. Sick or injured wildlife may be delivered to a licensed wildlife rehabilitator for rehabilitation purposes within 24 hours of capture.

e. NWCO permittees must follow all state and federal laws, rules and regulations that apply to the taking of wildlife, with the exception of season dates and bag limits, except as otherwise provided in this Section.

f. All wildlife taken under a NWCO permit shall be taken and disposed of in a manner to ensure safe and effective handling and/or euthanasia. Euthanasia of a captured animal is to be performed under the guidelines adopted by the American Veterinary Medical Association.

g. Traps or other capture devices set for live capture shall be checked a minimum of once every 24 hours and all

animals removed. All traps and other capture devices shall be marked with permanent tags bearing the name, address and telephone number of the NWCO.

h. Only legal methods of take, as provided by existing law, shall be authorized under the NWCO permit. In addition to legal traps and snares, nets and capture by hand are authorized.

i. All traps and other capture devices shall be set in a manner that:

- i. will minimize the risk to non-target animals;
- ii. will minimize the risk to the public and to pets;

and

iii. is out of the view of the general public.

j. The NWCO permit does not authorize the use of firearms, except that nutria, beaver, coyotes, armadillos and feral hogs where legal, may be taken as provided by existing law. Firearms may also be used in accordance with the American Veterinary Medical Association (AVMA) guidelines on euthanasia. Discharge of any firearms shall be subject to all state, parish and municipal restrictions and ordinances.

k. When relocation is authorized, the NWCO may have the wildlife in possession for no more than 24 hours unless specifically authorized by the department.

l. Wildlife that is relocated shall be released at least five miles outside of any city limit and must be released within the state of Louisiana.

m. Wildlife shall not be released on private land without written permission of the landowner or landowner designee.

n. Wildlife shall not be released on public land without first obtaining written permission from the governmental entity owning or administering the release property.

o. Captured wildlife that appears to be sick or injured shall be turned over to a licensed rehabilitator or euthanized rather than be relocated. Burial or incineration of these carcasses is required.

p. Raccoons and skunks shall not be relocated and shall be euthanized, within 12 hours of capture, in accordance with the current American Veterinary Medical Association (AVMA) guidelines on euthanasia.

**AUTHORITY NOTE:** Promulgated in accordance with the Louisiana Constitution, Article IX, Section 7, R.S. 56:1, R.S. 56:5, R.S. 56:6 (10), and (15), and R.S. 56:112, et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 30:

**Family Impact Statement**

In accordance with Act No. 1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its family impact statement in connection with the preceding Notice of Intent. This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Interested persons may submit written comments relative to the proposed Rule to James Ernst, Fur and Refuge Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, prior to Tuesday, July 6, 2004.

Bill A. Busbice, Jr.  
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Nuisance Wildlife Control**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

Implementation costs of the proposed rule are anticipated to be negligible. The permit application will have to be revised to include a written, take-home test and a new Nuisance Wildlife Complaint Form. It is anticipated that the new test requirement would actually make it easier to evaluate applications and make the program more efficient. Local governmental units will incur no implementation costs or savings from the proposed rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Revenue collections of state and local governmental units will not be impacted by the proposed rule.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule affects persons engaged in the private, commercial nuisance animal control business. The rule would require a Nuisance Wildlife Control applicant to score a minimum of seventy (70) percent on the Nuisance Wildlife Control Examination to receive a permit.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

No effects on competition or employment are anticipated.

Janice A. Lansing  
Undersecretary  
0405#017

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

# Potpourri

## POTPOURRI

### Department of Agriculture and Forestry Horticulture Commission

#### Retail Floristry Examination

The next retail floristry examinations will be given July 19-23, 2004, 9:30 a.m. at Louisiana Technical College, Lomax Hall, Ruston, LA. The deadline for sending in application and fee is June 4, 2004. No applications will be accepted after June 4, 2004.

Further information pertaining to the examinations may be obtained from Craig Roussel, Director, Horticulture Commission, Box 3596, Baton Rouge, LA 70821-3596, phone (225) 952-8100.

Any individual requesting special accommodations due to a disability should notify the office prior to June 4, 2004. Questions may be directed to (225) 952-8100.

Bob Odom  
Commissioner

0405#026

## POTPOURRI

### Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

#### Public HearingCSubstantive Changes to Proposed Rule AQ238

Under the authority of the Louisiana 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 the department is seeking to incorporate substantive changes to the proposed amendments to the Air Quality regulations, LAC 33:III.209 (Log #AQ238S), which was originally noticed as AQ238 in the February 20, 2004, edition of the *Louisiana Register*. This Rule is also being proposed as a revision to the Louisiana State Implementation Plan (SIP).

The department has made substantive changes to address comments received during the public comment period from the Environmental Protection Agency regarding approvability of AQ238 as proposed on February 20, 2004.

A ~~strikeout/underline/shaded~~ version of the proposed Rule that distinguishes original proposed language from substantively changed language can be viewed by visiting the DEQ website at: <http://www.deq.louisiana.gov/planning/regs/addition/index.htm>.

A public hearing on the substantive changes and the SIP revision will be held on June 24, 2004, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room C111, 602 North 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 Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Free parking is available across the street in the Galvez parking garage when the parking ticket is validated by department personnel at the hearing.

Written comments regarding the substantive changes must be received no later than July 1, 2004, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of Environmental Assessment, Environmental Planning Division, Regulation Development Section, Box 4314, Baton Rouge, LA 70821-4314 or to fax (225) 219-3582 or by e-mail to [judith.schuerman@la.gov](mailto:judith.schuerman@la.gov). Persons commenting should reference AQ238S in their correspondence. 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 AQ238S.

This regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 North 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; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374 or on the Internet at <http://www.deq.louisiana.gov/planning/regs/index.htm>.

#### Title 33

#### ENVIRONMENTAL QUALITY

#### Part III. Air

#### Chapter 2. Rules and Regulations for the Fee System of the Air Quality Control Programs

#### §209. Annual Fees

A. ...

B. All parties conducting activities for which the Clean Air Act Amendments of 1990 Section 185 fees apply shall be subject to the payment of such fees by the due date indicated on the invoice. Except as provided for in Paragraph B.1 of this Section, any owner or operator of a major stationary source that is located in the Baton Rouge Severe Nonattainment Area (Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge Parishes) shall pay a fee in accordance with Paragraph B.4 of this Section beginning in 2007 and in each calendar year thereafter until the Baton Rouge Nonattainment Area achieves attainment with the 1-hour National Ambient Air Quality Standard for ozone (40 CFR 50.9), or until the U.S. EPA revokes the 1-hour ozone standard.

1. Exemptions. No major stationary source shall be required to pay fees required by this Subsection for emissions that occur during an extension year granted by the EPA administrator according to Section 181(a)(5) of the Clean Air Act.

2. Definitions. All terms used in this Section, unless the context otherwise requires or unless specifically defined in the Louisiana Environmental Quality Act or in other regulations promulgated by the secretary of the department

or his predecessor, shall have their usual meanings, except for those terms specifically defined as follows.

**Attainment Year**—the calendar year that the Baton Rouge Nonattainment Area is required to reach attainment of the 1-hour national ambient air quality ozone standard.

**Baseline Amount**—the yearly average of the sum of actual volatile organic compounds (VOC) and nitrogen oxides (NO<sub>x</sub>) emitted from nonexempt units during any three calendar years from 1998 through 2002. The *baseline amount* shall be determined in accordance with Paragraph B.3 of this Section. The three years selected need not be consecutive.

**Major Stationary Source**—any stationary source or group of sources located within a contiguous area and under common control that emits, or has the potential to emit, at least 25 tons per year of either VOC or NO<sub>x</sub>.

3. Baseline Determination. Facilities shall identify the three years that are most representative of normal operations to be used in the calculation of the baseline amount. The identification will be submitted with the annual emissions inventory submitted in accordance with LAC 33.III.919 for the calendar year 2007.

4. Fee Requirements

a. For VOC and NO<sub>x</sub>, each major stationary source shall be assessed an annual fee payable to the department in accordance with LAC 33:III.215. The fee shall be calculated as follows:

$$\text{Fee} = [A - (0.8 \times B)] \times C$$

where:

A= the sum of VOC and NO<sub>x</sub> emissions in tons per year actually emitted during the previous calendar year.

B= the baseline amount.

C= a fee of \$5000 per ton, adjusted by the Consumer Price Index in accordance with Section 185 of the Clean Air Act, as amended [42 USC 7511d(b)(3)].

b. If the sum of VOC and NO<sub>x</sub> emissions (A) is less than or equal to 80 percent of the baseline amount (B), the fee shall be set to zero.

c. By the end of calendar year 2007 and each year thereafter, the department shall assess a fee for emissions in the previous calendar year.

d. By the due date indicated on the invoice and each year thereafter, each facility subject to this Subsection shall remit the assessed fee to the department in accordance with LAC 33:III.215. See LAC 33:III.217 for late payment fees. See LAC 33:III.219 for action taken regarding nonpayment of the fee.

**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 14:611 (September 1988), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:17 (January 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:264 (February 2000), LR 30:

James H. Brent, Ph.D.  
Assistant Secretary

0405#020

## POTPOURRI

### Office of the Governor Office of the Workforce Commission

#### 2004 Top Occupations in Demand

##### Action

The Occupational Forecasting Conference (OFC) hereby releases the final report of the Top Occupations in Demand for the state and eight regional labor market areas. This report is developed and released biennially by the Occupational Forecasting Conference and the Louisiana Department of Labor (LDOL). It is available online as a spreadsheet on the OFC website at [www.laworkforce.net/ofc](http://www.laworkforce.net/ofc). In addition, the Top Occupations in Demand and a plethora of other labor market information is available on the LDOL website at [www.laworks.net](http://www.laworks.net).

##### Authority

Revised Statute 23:76C(6) requires "a final report of the top future growth and demand jobs statewide and by region, and the skills necessary to fill such jobs [to] be published in the Louisiana Register..."

##### Report

The Top Occupations in Demand are those occupations with the highest expected number of job openings ranked by total annual openings and expected growth. The purpose of the report is to provide indicators for economic development and anticipate workforce development needs, especially as it relates to prioritizing publicly funded training programs. It is also useful to students and jobseekers that are choosing a career or training path.

The user will find that many of the occupations with the most annual openings are those occupations that require less skill and offer lower salaries, particularly in the areas of retail and food service. This trend is found nationwide and is due to the large number of these positions along with higher than average turnover. The Occupational Forecasting Conference includes these occupations as top demand even though they do not lead directly to sustainable wages for two major reasons;

1. they are indicators of economic trends and employer needs; and

2. they indicate entry level opportunities for low-skill workers that can start them on a more advanced career path.

When using this data for career decisions, the user should not just consider expected openings and growth. In addition, he or she should consider areas of personal interest and talent, the investment in education required, and the expected wages that can be earned. An additional spreadsheet that has been included on the OFC website is the Top 25 Demand Occupations that require some education or training. These jobs typically require additional attainment of skills and offer higher wages.

Each spreadsheet on the website includes 9 tables or worksheets; the Top Occupations in Demand for the state as a whole, plus a table for the 8 different regional labor market areas.

The 8 regional labor market areas (RLMAs) as defined by Executive Order No. MJF 99-37 are:

RLMA 1C Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Tammany

RLMA 2C Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, Tangipahoa, Washington, West Baton Rouge, West Feliciana

RLMA 3C Assumption, Lafourche, Terrebonne

RLMA 4C Acadia, Evangeline, Iberia, Lafayette, St. Landry, St. Martin, St. Mary, Vermilion

RLMA 5C Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis

RLMA 6C Avoyelles, Catahoula, Concordia, Grant, LaSalle, Rapides, Vernon, Winn

RLMA 7C Bienville, Bossier, Caddo, Claiborne, DeSoto, Lincoln, Natchitoches, Red River, Sabine, Webster

RLMA 8C Caldwell, East Carroll, Franklin, Jackson, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll

Questions and comments may be directed to David J. Bowman, Governor's Office of the Workforce Commission, 224 Florida Blvd., Suite 301, Baton Rouge, LA 70802, (225) 219-4497 or dbowman@idsmail.com

Chris Weaver  
Director

0405#040

**POTPOURRI**

**Department of Health and Hospitals  
Board of Embalmers and Funeral Directors**

**Embalmer/Funeral Director Examinations**

The Board of Embalmers and Funeral Directors will give the National Board Funeral Director and Embalmer/Funeral Director exams on Saturday, June 5, 2004, at Delgado Community College, 615 City Park Avenue, New Orleans, LA.

Interested persons may obtain further information from the Board of Embalmers and Funeral Directors, Box 8757, Metairie, LA 70011, (504) 838-5109.

Dawn Scardino  
Executive Director

0405#041

**POTPOURRI**

**Department of Health and Hospitals  
Board of Veterinary Medicine**

**Fee Schedule**

Following are the fees that are charged by the Louisiana Board of Veterinary Medicine:  
Doctors of Veterinary Medicine:

Annual Active Renewal Fee	\$225
Annual Inactive Renewal Fee	\$100
Renewal Late Fee	\$125
Renewal Late CE Fee	\$ 25
DVM Original License Fee	\$225
Application Fee (Initial)	\$ 75
State Board Examination Fee	\$175
Duplicate Wall Certificate Fee	\$ 25

**Registered Veterinary Technicians:**

Annual Renewal Fee	\$ 30
Late Renewal Fee	\$ 20
Examination Fee (VTNE)	
(does not include exam vendor's cost)	\$ 40
Original Certification Fee	\$ 30
Initial Application Fee	\$ 25

**Certified Animal Euthanasia Technicians:**

Annual Renewal Fee	\$ 50
Late Renewal Fee	\$ 25
Course Fee	\$ 80
Examination Fee	\$ 50
Original Full Certification Fee	\$ 50
Temporary Certification Fee	\$ 50
Initial Application Fee	\$ 25

**Registered Equine Dentists:**

Original Registration Fee	\$200
Annual Renewal Fee	\$125
Late Renewal Fee	\$100
Initial Application Fee	\$100

Wendy D. Parrish  
Administrative Director

0405#044

**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
Carondelet Oil Co., Inc.	West Hackberry	L	J. H. Duhon	1	021806 (28)
An-Son Corporation	So. La. New Orleans District	L	Missouri Pacific Railroad	1	093000
R. J. Coleman Well Service	West Hackberry	L	Vernie H. Suduwischer	5	066625
C. W. Fontenot	Jennings	L	Heywood	025	023311
Tepco Resources	Maurice	L	Leger	1	224033
Tepco Resources	Maurice	L	VUA; Anna Hebert et al.	1	224827
Daleco Resources	Monroe	M	A. C. Martin	001	146020
Daleco Resources	Monroe	M	W. B. Williams	004	146022
Daleco Resources	Monroe	M	Halterman	001	146415
Daleco Resources	Monroe	M	Halterman	002	146416
Daleco Resources	Monroe	M	McNabb	001	146417
Daleco Resources	Monroe	M	Lively	001	146637
Daleco Resources	Monroe	M	Gregory	001	146639
Daleco Resources	Monroe	M	Navarro	002	148250
Daleco Resources	Monroe	M	Navarro	003	148251
Daleco Resources	Monroe	M	Navarro	004	148252
Strataform, Inc.	Monroe	M	Pickett	001	141045
Strataform, Inc.	Monroe	M	Pickett	002	141073
Strataform, Inc.	Monroe	M	Ates	001	144459
Strataform, Inc.	Monroe	M	Everrett	001	144775
Strataform, Inc.	Monroe	M	Brown	001	147632

James H. Welsh  
Commissioner

0404#024

**POTPOURRI**

**Department of Natural Resources  
Office of the Secretary  
Fishermen's Gear Compensation Fund**

Loran Coordinates

In accordance with the provisions of R.S. 56:700.1 et seq., notice is given that 11 claims in the amount of \$36,265.59 were received for payment during the period April 1, 2004 - April 30, 2004.

There were 11 claims paid and 0 claims denied.

Loran Coordinates of reported underwater obstructions are:

29054            47041            St. Bernard

Latitude/Longitude Coordinates of reported underwater obstructions are:

2913.333      9027.662      Lafourche  
 2916.221      8938.108      Plaquemines  
 2923.246      9002.426      Jefferson  
 2924.478      8959.987      Jefferson  
 2931.650      9203.220      Vermilion  
 2940.943      9010.763      Jefferson  
 2943.378      8949.763      St. Bernard  
 2951.383      8940.290      St. Bernard  
 2957.544      8943.844      St. Bernard  
 3009.667      8938.915      Orleans

A list of claimants and amounts paid can be obtained from Verlie Wims, 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

0404#058

**POTPOURRI**

**Department of Social Services  
Office of Community Services**

Louisiana's Consolidated Child and Family Services Plan for 2005-2009

The Louisiana Department of Social Services (DSS) announces opportunities for public review of the goals and objectives of the State's Consolidated Child and Family Services Plan for 2005-2009. Louisiana, through the DSS Office of Community Services (OCS), provides services that include child protection investigations, family services, foster care, and adoption. The Consolidated Child and Family Services Plan is a planning document which outlines the goals and objectives/outcomes for the OCS for the time

period October 1, 2004 through September 30, 2009, regarding the use of Title IV-B, Subpart 1 and Subpart 2, Title IV-E Independent Living Initiative and Child Abuse Prevention & Treatment Act (CAPTA) funds.

We are encouraging public participation in the planning of services and the writing of this document. Copies of the Consolidated Child and Family Services Plan are available for public review at the OCS State Office, 333 Laurel Street, sixth floor, Room 645, Baton Rouge, LA. Inquiries and comments on the plan may be submitted to the OCS State Office, P. O. Box 3318, Baton Rouge, LA 70821, attention Richard Horner (225) 342-1553 or Joel McLain (225) 342-2416.

All interested persons will have the opportunity to provide recommendations on the plan at the public hearing scheduled for June 3, 2004 at 10:00 a.m. at the OCS, 333 Laurel Street, Baton Rouge in room 652. Written comments will be accepted until the close of business on June 3, 2004.

Ann S. Williamson  
Secretary

0405#043

## **POTPOURRI**

### **Department of Transportation and Development Sabine River Compact Administration**

#### Meeting Notice

The spring meeting of the Sabine River Compact Administration will be held at the Wyndam New Orleans at Canal Place, New Orleans, LA , June 11, 2004 at 8:30 a.m.

The purpose of the meeting will be to conduct business as programmed in Article IV of the By-Laws of the Sabine River Compact Administration.

The fall meeting will be held at a site in Texas to be designated at the above described meeting.

Contact person concerning this meeting is:

Kellie Ferguson, Secretary  
Sabine River Compact Administration  
15091 Texas Highway  
Many, LA 71449  
(318) 256-4112

Kellie Ferguson  
Secretary

0405#036



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